THE EARL OF CASTLEMAIN's Manifesto.

Nec poteſt aut Veritas cum vi, aut Juſtitia cum credulitate conjungi. Lact.

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THE EARL of *CASTLEMAIN'S* MANIFESTO.

HAving had the misfortune to be accus'd, (if he can call it so, that has been openly acquitted and freed,) I left the *Publication* of all Particulars, to those who still furnish'd the Curious with Transactions of that nature; But seeing they have been not a little faulty in my *Tryal*, which yet came not out till the end of last *January*; and seeing Mr. *Turbervile* has been as extravagant as any of his fellows, in his wild printed *Charge* against me, I think it now an incumbent *Duty* to give the

World, (and consequently Posterity) a full Account of my *Troubles*, since these unparallel'd *Disorders*, which have not only disturb'd the flourishing State of *England*, but astonish'd and amaz'd the whole Universe also.

The *Parliament* (according to the time appointed at their *July Prorogation*) meeting again on *Munday* the 21*st*. of *October* 1678. Mr. *Oates* was order'd (on the 2*d*. day following) by the *Lower House*, to acquaint them with the *Particulars* of the *Plot*, which he did in a Discourse of many hours, being for the most part the same, as that in the *Narrative*, since printed by his leave and directions. But the thing expected with the greatest Impatience by the whole *Town*, was an account of the *Persons* nominated to the *Spiritual* and *Temporal* Imployments mention'd by him; and this he was to give in (as he did) the next day; whereupon the *House* sent for the *Chief Justice*, who having taken his *Accusation* upon *Oath*, issu'd out *Warrants*, and so * *three of the Lords* (the *Others*, and most of the *Gentlemen* being in the *Country*)

* Lords, *Powis*, *Arundel*, *Bellasis*.

we

were secur'd that very night, or early next morning. The News flying presently about, several of my *Protestant Friends* came to congratulate my want of *Preferment*, which they took as an infallible sign of my Innocence; for they thought, I could not (if privy) have miss'd of some *Imployment*, when *Medbourn* a *Player*, and *Townley* an *Alehouse-keeper*, were already eminently promoted. Within some hours after, I heard that the *Earl of Powis* and my *Lord Arundel* (for my *Lord Bellasis* was not yet removed by reason of the *Gout*, which almost always afflicts him) were at the *Gate-house*, expecting how the *Peers* would dispose of them; I went to see them, as my near Relation to the one, and my Acquaintance with the other, I thought, obliged me. There I found they were to lye that night, and so to be carried to the *Tower*, but little dreamed that I was immediately to succeed them; for Mr. *Oates* (for Reasons best known to himself) thought fit next morning (*viz.* *Friday* the 25*th.*) to accuse me of *Treason* also to the *Commons*, who order'd the *Justices* *Oates* accuses me.

of Westminster (that were *Members*,) to examine him upon *Oath*, and then to proceed accordingly; which as soon as I heard, I went to take my leave of my *Friends*, foreseeing that a *Confinement* would necessarily follow.

Whilst I was in my *Visits*, one of my Servants came to acquaint me, that Mr. *Tissard* (the *Sheriff*) and his men were at my *House*; so that returning home some few hours after, (to wit, about 10 at night) I found the Rooms below stairs full of *People*; and asking them for their *Officer*, I spoke to him to this effect; *That I was sorry I had made him stay so long, but that he needed not to have troubled himself with so many Attendants, since any one of them with Authority had been sufficient.* He answer'd, That by virtue of the *Warrant*, (which he shewed) *he was to secure me and my Papers*, but that he had not yet medled with them, because he understood that I had the *Keys* of my *Cabinets* and *Closet* about me. I gave him many thanks for his Civility in not breaking open *Locks* unnecessarily, and then calling for Lights, I conducted him, and two or three of his Fol-

Followers, to my Apartment. Having there seiz'd all my *Papers*, he sealed them up in a *Box* with my own *Arms*, to avoid (as he told me) pretences of foul play, and so took it with him; but as for my self, (being it was very late) he suffer'd me (at my request) to lye at home with a Guard. In the morning he came again for me, and the *Box* being with him, I desir'd, that since he had taken not only my *Letters*, but all sorts of *Papers* also, as *Bills*, *Acquittances*, *Accounts*, and the like, (which might occasion perhaps, I said, some future dispute between me and my *Steward*, or those whom they concern'd) he would be pleas'd to let me see what he carried away. This too he civilly granted me; and when in the presence of him and the rest I had slightly viewed all, he sealed the said *Box* as before, and then brought it and me (together with a *Cabinet* full of *Deeds* and *Conveyances*) (which I wonder'd not a little at,) to *Sir Charles Harbord's*, where I found not only *Sir Charles*, but *Sir Philip Howard* and *Sir Edmund Windham* (the *Knight-Marshal*) who came also thither to examine me. When

He secures me and my Papers.

My Examination.

When we were all seated about the Table, *Sir Charles* asked me, How long it was since my being at *Rome*? I told him, *I came last thence about the year 69.* Then he demanded, Whether I was divorc'd? I answer'd, *No.* Whether I knew one *Strange*? I told him, *Yes.* What was he for a man? I said, *He had been lately* (as I heard) *Provincial of the Jesuits.* Where had I seen him? I reply'd, *Beyond Sea.* Whether I had not seen him in *England*? I said, *Yes. When*, continu'd he? I answer'd, I was not able to tell exactly, it being a good while ago. He desir'd me to inform them as near as I could. I reply'd, That I thought at my *return home* (which was about that time twelve month, or a little more) he among others came to welcome me; but I was sure I had not seen him in a long time. Then he asked me what I knew about the *Plot*? I answer'd, I knew *nothing*, neither did I believe there was any *Plot.* Did you (says he) never hear of any thing tending to a Design against the *King*? I answer'd, *I never did in all my life*, and that I thought my *Relations*

known

known Loyalty, and my *Own*, might assure them of it. *If you had been made acquainted* (says he) *with a* Design *against the* King, *do you think your self bound to have discover'd it; and would you have done it?* I answered, I was bound; and would have done it also.

This is the *sum* of my *Examination*; and as much of it as they deem'd fit, their *Clerk* (by their directions) put in writing, which I also read and subscribed. Now that the *Reader* may see the cause of all these Questions, I shall here insert *the particulars of* Oats's *Accusation before the Commons*, couch'd in his own Stile and Phrase; And thus I found it (some few days after) in the very *publick Papers* that went about;

'*That* JAMES *Earl of* Ca- Mr. Oats's Ac-
'stlemain (for so he Chri- cusation.
'stned me) *was, he verily believed, a*
'Priest, *and of the* Order of Jesus: *That*
'*the said* Earl *had sued a* Divorce *between*
'*him and his Wife* Barbara, *now* Dutchess
'*of* Cleveland, *which* Divorce, *he* (Oats)
'*saw about* November *or* December *last*,
'*in the hands of* Richard Strange, *late*
'Provincial *of the* Jesuits *in* England;

'*and that in* June *or* July *last he heard* '*the said* Earl *in the Chamber of* John 'Fenwick *near the* Horse shoe *in* Drury-'lane, *declare his Approbation of the late* 'White-horse-Consult *about the* King's 'Death: *present* Basil Langworth *and the* '*said* John Fenwick.

After Sir *Charles* had done with my *Examination*, he call'd for the *Cabinet of Deeds*; and taking out every *Drawer*, they opened some *Parchments*, and particularly those with *Great Seals*; as *Colledge-Leases*, *Exemplifications*, &c. So that to save trouble, I assur'd them there was nothing there besides *Writings* relating to my *Estate*. Sir *Charles* answered, *That among Writings it was a good place to hide Commissions:* By which I found why the *Sheriff* had brought them away with him; And truly I think that Sir *Charles* did also ask me in my *Examination* about the so much discourst of *Commissions from Rome*. Now for the sealed *Box of Papers*, he commanded it to be carried up to his Chamber, saying it was to be sent to the *Council*; And after we were risen they ask'd the *Sheriff* several private Questions, which (by some

some words lowder than the rest) I gues's'd were concerning the manner of my surrendry, and the like.

These *Magistrates* having thus fully performed their Duty, I told them I was not a little troubled, that my first Visit to them should be upon so ill, and so unexpected an account; but since I had (as I hop'd) satisfi'd them in all particulars, I suppos'd I might now go home. Sir *Charles* answered, *That they were to acquaint the* House *with what they had done, and that in the mean time the* Sheriff *was to keep me in custody*, who thereupon brought me to his *Brother*'s in *Covent-Garden*; but within few hours after Dinner, an *Order* came (signed by these, and the other *Justices*) to convey me to the *Gate-house*, from whence the *Council* sent me afterwards by a *Serjeant at Arms* to the *Tower*. *Sent to the Tower.*

There I remained three *months*, that is to say, till the next Term; For on the first day of *Hillary-Term*, I moved for my *Habeas corpus*; and being brought by it to the *King's Bench-Bar*, the *Judges* asked Mr. Attorney *Jones* what he had to say against my Enlargement? He an-

answered, *That I was a Prisoner (as appeared by my Commitment) for High Treason in the highest nature; but that he had but one Witness against me.* My Case therefore being declared *Bailable*, I was bound in a Recognizance of 2000 *l.* and my *Sureties*, which were *two*, in 1000*l.* a piece, that I should appear on the first of *Easter Term*, following. This I punctually performed; and at the end of the said *Term* I was again ordered to appear on the first of *Trinity Term*, which I did too; As also on the last of it; but then my *Council*, (to wit, Mr. *Scroggs* and Mr. *Sanders*) *mov'd for my Discharge*; So that Mr. *Attorney* (being call'd upon) answer'd, That Mr. *Oats* was my *Accuser*, and if their *Lordships* pleas'd, they might know of him what he had against me. Mr. *Oats* presently appeared, and openly averr'd, in my presence, and in the face of the whole Court, *That I had assented to the Death of the King: That I had sued out a Divorce from* Rome; *which Divorce he saw in the hands of Pro-*

Bailed Hil. Term 78.

I appeared East. Term, 1679.

A motion in *Trin. Term.* 79.

Mr. *Oats's* Accusation before the Judges of the *King's Bench.*

Provincial Strange; *And that he believed I was a* Priest. Tho' this were only my first Accusation; yet being of that high nature, the *Court* would not discharge me; therefore they continu'd me on Bail to appear on the first of *Michaelmas Term*; as I did; And then I was remitted to the last day of it, after the former manner: But long before that, there happened another Adventure, which I am here to relate.

I appear in *Mich. Term* 1679.

On *Saturday November* 1. 1679. I dined with my Lord *Powis* at the *Tower*; and about 5 in the evening, as I was coming from seeing my Lord *Bellasis*, (who had been ill) some of my Lord *Stafford's* people meeting me, said, That all the *Gates* were shut, and that the *Gentleman Porter*, with a *Guard*, was in quest of me. I presently desired them to tell him he might find me at their *Lords*; which being done, an *Order of Council* was shown me by a *Messenger*; who also told me, That I must presently attend the *Board*, So that calling for two *Hackney-Coaches*, (for they kept my own behind, to search

Taken the second time.

it

it for Papers) they first carried me home where I found another *Messenger*, watching my Appartment, till I came myself to open the doors Here they seiz'd on all my Papers; and from thence I was brought to the *Lobby*, and after some stay there, unto the *Council-chamber* it self.

Brought before the King and Council and Examined.

Having made a low Reverence to the *King*, I stood not far from his *Chair*; then the Chancellor rose up and asked me if I knew one *Willoughby?* I answered, *Yes*: How long have you known him said he? I replied, *I would (if his Lordship thought fit) give him an account, not only of that, but of every thing else within my knowledge concerning him*, which he and the Board liking, I began thus; *That one Mrs.* Cellier *visiting the Prisons in the beginning of the Troubles, and coming to me (as she did to others) about Charity for the poor there: I told her, I would not only then give her something, but would allow them weekly also: And thus* (said I) *my Lords, I still do. Upon this account* (continued I) *and that of the St.* Omers *Witnesses, (which*

I had provided for my own Defence in case of Trial, and which I lodged at her House) she came frequently to me; and (among the news and accidents of the Prisons) told me one day, she had taken out of Newgate, *for* 3 l. 10 s. *a young man verst a little in the Law, whom she thought very fit to look after several desperate Debts (to the value of* 3 *or* 4000 l.) *due to her Husband, who had formerly been a considerable* French-*merchant: This Fellow was, it seems,* Willoughby, *now* Dangerfield: *and him she sent sometimes to my House on ordinary Errands; but presently he plaid me as villanous a trick as could be imagin'd, considering the times we live in; the thing was this; The five* Jesuits *being (on the* 20th *of* June *last) Executed, he came within very few days after, to me, either in my Lady* Powis's *Name, or pretending to go to her afterwards, and asked me if I thought it convenient to have their Speeches printed: I told him, By all means; for why should such excellent and loyal things fall to the ground? He replied,* That it would cost *Ten pound; Well, said I, if it does, tell my Lady I'l willingly give something towards it;*

and

and so he departed. Not long after, I went to the Tower *to see my Lord; and as soon as I met him, said he, (with an apparent dissatisfaction)* Why did you send a stranger to me? And besides, what have I to do with the *Jesuits* Speeches? *Has any body (answer'd I) been with you in my Name concerning that Affair?* Yes, (replied he) one *Willoughby* (as they call'd him) whom I sent away as he came, as soon as he acquainted me with the message. *This accident surprizing and troubling me not a little, I took my leave of his Lordship, assuring him that I never sent the Fellow, and so went straight to Mrs.* Cellier, (*who being hunted for by Sir* William Waller *and Captain* Richardson, *lay then at* Powis-house) *and bidding the Porter call her to me, I acquainted her what the Spark had done; and also told her, He was so great a Villain, that if ever he came any more to me, I would order my Servants to kick him out of my House. Thus, my Lord,* (said I to the *Chancellor*) *you have an account of my acquaintaince with* Willoughby, *and the reason also I had to be angry, and to forbid him for ever coming near me again.* But (answer'd the *Chancellor*)

cellor) did you never know of any *Proposal* made to him by the *Lords in the Tower?* *No*, said I. Nor were you (proceeds his *Lordship*) ever angry with him *for refusing to perform what they proposed to him?* *No* (replied I) *I assure your Lordships.* Mr. *Willoughby* (says the *Chancellor*) you may perchance refresh my *Lord*'s memory with particular circumstances. Upon which he appeared on the other side of the *Table*, being before with his *Keeper* in a corner, unseen by me; and making a bow, I am beholding (said he) to your *Lordship* for confirming so material a part of my *Evidence*. *As how, good Mr.* Willoughby, answered I? That I was (said he) with the *Lords* in the *Tower*. *But Sir,* (answered I) *did I not, after your going thus thither in my Name, forbid you from coming at me any more?* You did, answered he, and *it was the last time I came.* *Then make, I pray, what advantage you can,* said I. The *Lords* in the *Tower* (continues he) having made me the *proposal*, I crav'd time to consider of it; which did not a little displease them; And when I went next to my *Lord Castle-*

stlemain's, I found him in his *Study*; who, as soon as he perceived me, rose up in anger, and asked me, *Why I would not do that which the Lords proposed to me, and for which I was taken out of* Prison? So that, finding his *Lordship* in passion, *I ran down stairs, and went away. Willoughby* affirming this, and I the contrary, *viz. That I never heard of any* Proposal *made him by the Lords*; The *Chancellor* said, He would tell me what the *Proposal* was, to make me the better call the whole business to mind; and then declar'd, *That they had propos'd the Killing of the King to him*; and this also *Willoughby* attested. *I know nothing of it*, replied I; and thereupon asked *Willoughby when it was that I thus frighted him down stairs?* As he was musing a while, and looking up in a considering posture, I said, *You had need Friend consider well for it is the* Question about time *is the thing that will ever confound you and such as you are.* At last he told me, It was a fortnight or three weeks after Sir *Geo. Wakeman's* Trial. *Now, my* Lords, (replied I) *I have all I desire, having caught him (as I expected) in a most evident* Lie *and* Contradiction; *for did he not confess*

to

to your Lordships, that he never came to me after his Knavery *at the* Tower; *which was (as appears by the publick sale of the* Jesuits Speeches) *at least* five weeks *before Sir* George Wakeman's *Trial*; *and yet now he affirms,* That my being angry with him was even a fortnight or three weeks after the said Trial. This so much startled him, that he had nothing to say, but that he would shew me circumstances to prove the Truth of his Allegation; which were, That I was then writing the *Compendium*, a *Paragraph* of which he read as it lay before me on the *Table*: That one *Lawson* was then in the House, as also *Turner* the *Bookseller*. *These* (*said I*) *are vain things, and so far from reconciling your former* Contradictions, *that they create new ones; For how was it possible for you to read a paragraph in a Paper, when I my self was by, and* (*as you urge*) in an angry humour, *at the very first sight of you.*

[And here I must, with my *Reader's* leave, further acquaint him, That *Dangerfield* neither pretended to have done this by surprize, nor would it have availed him, had he said so; for my *Chair*

and *Table* in my *Study*, (as every one of my Servants knew, and as the very *Officers* that had newly search'd it could witness) so face the door, that it is impossible for any body to come in, and not to be presently seen by me, when there.] Now (continu'd I to *Dangerfield*) for the persons you name, they are easily guess'd at, *Lawson* being my *Sollicitor*, and consequently most mornings with me, and the other my *Bookseller*, who having Orders to bring me still whatsoever was new, could not but be often at my House, the *Press* being at present so prolifick. He to amuse me and the *Board*, began again with the *Compendium*, and that he read only part of a *Paragraph*; but the *Chancellor* telling him, that that was not the present Question, he was sent out, and *Mr. Oates* came in, who had not long before written in a *Note* that he had something to accuse me of.

Oates came in against me.

As he was going to speak, the *Chancellor* commanded the *Clerk* to give him his *Oath*. *Mr. Oates* answer'd, he had already sworn to what he had there to say.

say. If you have sworn a thousand times, (reply'd *his Lordship*) no body here will believe you, unless you swear also before them. Upon that he kissed the *Book* without more words, and then said; *That he saw me at a Meeting, in which I approved of the Design of killing the King; That I had sued out a Divorce in the Court of* Rome *between me and the Dutchess of* Cleveland, *which Divorce he saw in the hands of Mr.* Strange *the then Provincial; and that he had also seen Letters both from* Liege *and* Rome (if I forget not) *that I was a Priest and had said Mass.* I assured their *Lordships*, that I would not tell them a *Lye* upon any account whatsoever; and if they found me thus guilty in the least particular, I desired that all things laid to my charge might be believed. Then I told them as for my being a *Priest*, I should (were I one) be so far from positively denying it, as I did, that I would glory in the *Title*; but for the *Divorce* I durst appeal to the *Dutchess* her self, whom he had named. The *Chancellor* reply'd suddenly to this pu-

Oates's Accusation before the King and Council.

poſe, That the *Dutcheſs* would ſay nothing to the wrong or prejudice of any body. *My Lord*, (anſwer'd I) I ſpeak not this reflectingly, but to acquaint you, that ſhe (who is concern'd, and who has I am ſure made much enquiry about it) does certainly know the falſity of it. Then I deſir'd their *Lordſhips* to conſider, whether it were poſſible, that ſuch a ſilly pitiful Fellow as *Oates*, ſhould have thus all *Catholicks Secrets* (let their *Quality* be what it would) communicated to him. But as I was in this manner deſcanting on my Accuſer, a *Lord* roſe up and told me, *That I muſt know I was in the King's preſence, and that I was not to give his Witneſſes foul language*, with much more to that effect. So after ſome further Velitations with Mr. *Oates*, and that I had aſſur'd him, I ſhould at another time, and in another place, ſhew him fully his miſtakes, and particularly about the *Divorce*, (which I ſaid ſeveral *Letters* of mine taken from the beginning, and ſtill in the hands of the *Council* would clear) he went out; but before I ſtirred, I addreſs'd my ſelf to the *King* in theſe or the like words: 'That tho' 'my

'my *Innocence* hindred me from fearing 'the punishment of a *Traytor*, yet I could 'not but deem my self extreamly unhap- 'py in being accused of *Treason*, when I 'had from time to time (as his *Majesty* 'well knew) given all the marks imagina- 'ble of my *Loyalty*. I ask'd also the *Noble-* 'man's pardon for saying any thing that 'offended him or the *Board*, & so retir'd.

Many other things I had to urge to the *Council*; as their great dis-esteem and slight (hardly three days before) of *Dangerfield's* Testimony against *Colonel Mansel*; his not laying to my charge any *Treason*; for he accused me not positively of knowing what the *Lords* in the *Tower* had proposed to him; and that as for *Mr. Oates's* Charge, I had been imprison'd for it, and was then actually upon *Bail*. I say, I had many things to urge of this nature, which I deferr'd till I should be again called in; for I thought I was to be clear'd or sentenc'd *viva voce* by the *Board*. But after an hours waiting, *Sir Tho. Doleman* told me, the *Lords* were risen, and that there was an *Order* drawing to commit me for *High-Trea-*

Sent to the *Tower* the second time.

ſon to the *Tower*, where I was next day carried by *Serjeant Beck*, it being then near 10 at night.

These are the Particulars of my *2d. Imprisonment*, and in them I have been the more full, to shew how far from any favour the *Lords of the Privy-Council* still were; for tho' in my *Case* there appear'd matter enough to justifie some indulgence, had they pleased, yet they deem'd it fitter for me to undergo the trouble of a new Confinement, (notwithstanding the *Objections* against the *Witnesses*,) than that there should be (by their means,) the least possibility for an accused *Papist* to escape. But for all this constant practice of theirs, *Mr. Oates* has not been wanting upon several occasions, in publickly taxing the *Board* of Partiality on our behalf.

Some Accidents in the Tower.

As soon as I was brought to the *Tower*, *Mr. Cheek* (the present *Lieutenant*) made me a *close Prisoner*, whereby not only my *Friends*, but my very *Servants*, except a *Valet de Chambre*, were denyd access. On the *Wednesday-night* following, (*viz. Nov.* 5.) the *Gentleman-Jayler* came to me

me for the *Lieutenants Fee*; I answer'd, That if the *Fee* were precarious, and at the Prisoner's Will, (as I had often heard it was) the asking of it now, I thought, was ill timed, for one Courtesie deserv'd another; and then I desir'd to know the reason of this severe Confinement, especially when the *Warrant*, shown me by the *Serjeant at Arms*, mentioned only *Safe-custody*, which is the *Liberty of the Tower* in other terms. He answer'd, That the *Lieutenant* did still upon the receit of a *Prisoner*, attend the *King*, to know his Commands, and accordingly he afterwards acted. I reply'd, *Sir John Robinson* follow'd his *written Orders*; and then further told him, that as for the Money required of me, I was so far at all times from denying an *Officer* his reputed *Fee*, that I deem'd it as much his due as his Rents, seeing otherwise an *Imployment* would not be such a favour as 'twas design'd; so that to save him trouble for the future, he was to know, that I had already paid it. To whom, answer'd he? To *Sir John Robinson*, (reply'd I,) the former *Lieutenant*; for since there can be but one *Fee* due for

any one *Impriſonment*, and ſince being out only upon *Bail*, I had been ſtill the *King*'s *Priſoner* as much as ever, therefore having paid it to *Sir John*, *Mr. Cheek* could no more demand any thing of me, than of any other *Lord* in the *Tower*. But (continu'd I,) I ſhall ſuddenly inform both his *Majeſty* and *Council* of *Mr. Lieutenant*'s Arbitrary uſage, contrary to their expreſs *Orders*, and if they approv'd it, I ſhould do the like alſo; In the mean time pray tell him of it, and bring me the *Copy* of my *Commitment* at your next coming. *Mr. Lieutenant* (ſays he) is not now at home; but as he was going away, I told him, that leſt any miſtake ſhould happen in the Meſſage, (for now adays I ſaw miſtakes in every thing,) I would write it down, as I preſently did, and ſo read it to him in my *man's* hearing. Next day, I prepared a *Petition* for the *King* and *Council*, and at night I asked him again for my ſaid *Commitment*. He anſwer'd, That the *Clerk* ſhould have brought it, had he not been abroad all day, and therefore he begg'd my pardon till the morning; but failing of it then

alſo,

alſo, I ſent my *Man* towards noon to demand it of the *Lieutenant* himſelf, who ſaid, That his *Clerk* ſhould forthwith bring it, which he never did till the night following, which was *Saturday*; and then I ſent him back with it, telling him, I had been put off too long, and that my *Sollicitor* ſhould call, when he lack'd it.

Some were of opinion that Mr. *Cheek* did thus confine me till *Saturday*, (which was the 7*th*. day) and delay the ſending a Copy of my *Commitment*, on purpoſe that I ſhould loſe the advantage of the *Habeas Corpus Act*, which obliges the *Kings Bench* either to *Bail* or a *Trial*, if it be prayed in the firſt *week* of the *Term*. But whatever the *Lieutenant*'s motives were, he brought himſelf within the *Penalty* of the ſaid *Act*; for it expreſly declares, *That the non-delivery of the* Copy *of a* Commitment *within ſix hours demand, is the forfeiture of one hundred pounds to the Priſoner; and the ſecond* Conviction, *the loſs of his very Office or Employment.*

Tho' the Clerk (as I ſaid) brought me not the *Commitment* till *Saturday-night*, yet *Mr. Cheek* came to ſee me in the mor-

morning, and then acquainted me, that in answer to my *Petition*, the *Liberty of the Tower* was granted by the *Board*; that he hoped I would not take that little *Confinement* unkindly at his hands, it being his duty, he thought, to wait upon the *King* after his receiving of a *Prisoner*, to know fully his pleasure; and that if he had erred in the not understanding the strict words of an *Order*, his being so short a time in the place might very reasonably plead his excuse; nor was it (he assur'd me) his temper to be uneasie or troublesome to any under his *Charge*; for he could live (he said) without the least Dispute his whole lifetime with men of *Honour* and *Worth*, and so named my *Lord Arundel*, my *Lord Bellasis*, and *Sir Henry Titchborn*, &c. I answer'd, That kind usage was at least the interpreting *Orders* in the best sence, and not in the worst; that the *Order* was so plain, that it was impossible (one would have thought) to mistake it, but that my greatest trouble was, that *Mr. Cheek* (whom I had long known and been acquainted with) should deal more severely with me, than a *Stranger*; yet since

since I was his *Prisoner*, he should find as much Complyance and Civility from me as from any man in the *Tower*. To this he made a courteous Reply, and then asked me about the *Cause of my present Restraint*, which when I had told him, with all the Particulars already mention'd, he took his leave; nor am I certain whether he said any thing about his *Fee*; but if he did, I shewed him again the Reasons of my disputing it, as I had done before by his *Officer*.

Having now the satisfaction of seeing my *fellow-Prisoners* and other *Friends*, I thought fit to use the means (which the *Law* provided) for my *Liberty*, and therefore towards the end of the *Term*, (for having not the advantage of the beginning, all parts of it were alike) I moved for my *Habeas Corpus*, and so was brought on *Friday* the 21*st*. to the *King's-Bench*. The *Judges* asked me, What I desired? My *Council* answer'd, To be *Bail'd*. Whereupon *Mr. Attorney Levins* was sent for, who said, *That I was committed for High-Treason, (as appear'd by my Commitment) and that I now had another* Wit-

I brought my Habeas Corp. &c.

Witneſs againſt me. I anſwer'd, That the new one had not laid *Treaſon* to my Charge, and that I hoped ſince the *Court* was ſo favourable formerly as to bail me upon a *Commitment of High-Treaſon in the higheſt nature*, they would do the like now, when it ſpecifi'd *High-Treaſon* only. The *Judges* reply'd, That it was not (they thought) within their power. Then *my Lords* (ſaid I) *I demand my Tryal.* Do you hear *Mr. Attorney* (anſwer'd the *Ch. Juſtice*) what my *Lord* ſays, He demands his *Tryal?* This ſeem'd to ſurprize a great many, for it was the firſt time that any body had called for *Tryal*, ſince the ſtirs about the *Plot*; and *Mr. Sanders* hearing my Requeſt, moved, *that it might be recorded.* Whereupon *Sir Francis Pemberton* (out of Charity I ſuppoſe to an old Acquaintance and Client) reply'd, Do you know *Mr. Sanders* what you ask? would you have a *Tryal recorded* about *Treaſon*, when there are two *Witneſſes* ready to prove it? *My Lords*, (ſaid I to the Court) my coming hither was principally for *Bail*, which I humbly conceive your *Lordſhips* may legally grant; Therefore be

be pleas'd to order me a *Rule*, that I may again wait upon you, when you have consider'd my Case more throughly than your present great business will perchance give you leave. This I obtain'd at last, and so returned to the *Tower*; but before *Wednesday* following, (which was the day I intended to appear again) there happen'd this Accident, which put me out of all hopes of success in my business.

An Accident.

Mr. *Oats*, since his greatness, had two men call'd *Lane* and *Osborn*, who inform'd one *Knox* (a late Servant to the Earl of *Danby*) that their *Master* had made a *Sodomitical Attempt* on the Body of the said *Lane*; whereupon *Knox* encouraged them to bring the Affair upon the *Stage*, as they did; But within a while after they were Indicted, *for maliciously conspiring to blast the Kings Evidence*, &c. And their *Trial* happened on *Tuesday* the 25th. of *November*, being the day that just preceded my aforesaid intended second Appearance. These not being found competent to cope with Mr. *Oats*, to make their *Conspiracy* plain and indisputable, had also

so Mr. *Dangerfield*, as a Witness against them. His Evidence brought up the Rear, and lay heaviest on *Catholicks*; for he made them the main Contrivers of this business, tho' before the storm fell on my *Lord Danby*, as may be seen in the Printed *Trial*. *Dangerfield* having thus a large Field to spare in, and knowing that I was again shortly to appear in that very *Court* about *Bail*, deposed, *That the Affidavits or Charge against* Oats (*which* Lane *had sworn to*) *had been sent from the* Tower *to one Mr.* Nevil (*a Protestant*) *and to me, to enlarge upon as we should think fit.* This being presently all about the *Town*, several of my *Friends* advised me not to stir any more that *Term*; but I told them I must beg their Pardon; for tho' the *Judges* might perchance be now less favourable and indulgent; yet I would never countenance a false Accusation so far as to desist for it, from doing what I had publickly declared before. I went therefore to the *Hall* as I design'd; but finding it order'd, (by reason of a long Cause, or some business of that nature) *That no person who came by their*

Second Appearance.

Ha-

Habeas Corpus, *should be that day heard*, I thought it not amiss to have my *Counsel* acquaint the *Court*, that I had been there, and then to demand a new *Rule* for *Friday*; which being granted, I appeared accordingly, and found the *Judges* (as I expected) severer than usually; for *Mr. Justice Dolben* told me even at first to this purpose; *That I might have spared my pains, they having heard (since my last being there) strange things of me.* And my *Lord Ch. Justice* said, *That I had (it seems) made so ill use of my late Liberty, and of the favour of the Court, that it would be the worse, he believed, for others.* After I had heard this and more to the same effect, I told their *Lordships*, that none could hinder the tongue of an ill man; that I would answer when they pleas'd to any Charge; and that in the mean time, I hop'd, they would not deny me my *Liberty* upon *Bail*, seeing my *Commitment was for High-Treason only.* At this some of the standers by repeated the words *for High-Treason only*, with no little *Emphasis* and wonder. *My Lords*, (said I) 'tis not that I think *High-Treason*

Third Appearance.

ſon a ſlight and inſufficient accuſation but I uſe the word *Only*, as ſome inducement to you to grant my Requeſt, by remembring you, as I did t'other day, *that I was bail'd, when my Commitment mention'd High-Treaſon in the higheſt nature*; and therefore I cannot doubt of leſs favour now, that it runs in a more ſoft and gentle phraſe. Beſides (continu'd I) give me leave to acquaint your *Lordſhips*, that my *Councel* are of opinion, that I have the *Law* on my ſide. It is ſtrange your *Councel* ſhould tell you ſo, reply'd the *Ch. Juſtice*. My Lord (ſays *Mr. Sanders* to me) your *Solliçitor* has I ſuppoſe wrongly inform'd you; and then *Mr. Scroggs* turning to me, deſir'd I would name the *Councel*. This Anſwer of theirs a little ſurprized me; for I thought a *Lawyer* that takes a *Fee*, adviſes me to proceed as I propoſe, if he forbids it not, according to the common *Axiom*, *Qui non vetat, cum poteſt, jubet*. I ſpeak not this with any reflexion on theſe *Gentlemen*, but to ſhow how high the ſtorm was, when *Lawyers* themſelves fear'd to countenance their *Clients*, if their *Caſe* ſeem'd in the leaſt dubious or

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diſguſtful. Deſiring then no Diſputes with my own *Councel*, I addreſt my ſelf to the *Judges*, and after they had again told me, that my Requeſt could not be granted, I ſaid, I was ſorry that I had been forced thus to trouble them; that I knew they would pardon it, ſince that *excellent Court* was the only place, which men in my *preſent condition* were to fly to; that I ſhould always acknowledge with a great ſenſe, the favours I had often received of their *Lordſhips*; that I did acquieſce in their Judgment, and could now with ſatisfaction go back to priſon, having perform'd the duty which I thought my ſelf obliged to; that I hop'd no misfortune of mine would be a prejudice to others; And laſtly, I entreated them to remember, *that I did again and again demand Tryal*; for being wholly innocent, I would not wave it, were there as many ſuch Witneſſes againſt me as could ſtand between *Weſtminſter* and the *Tower*. Their *Lordſhips* received what I ſaid very civilly, adding again, that they were ſorry they could not relieve me, and ſo I preſently return'd.

Fee again demanded. Some few nights after the *Gentleman-Gaoler* came again to me in *Mr. Lieutenant's* Name for his *Fee*. I answer'd, I thought I had already satisfi'd him in that point; but if it were otherwise, I could not help it, for I had no more to say. He repli'd to this effect, That the *Lieutenant* would use means, he believ'd, to have it, and locking the doors, departed. Next morning I was hardly dress't, when one of my men came and told me, that the *Lieutenant* passing by had called for the *Warder*, who presently returned with this Order; *That for the future he was to be in the Room whenever I gave or received Visits*: I bade him do his duty, for it was equal to me who heard my discourse; but I would nevertheless shortly know by what Authority *Mr. Cheek* dealt thus with me. Therefore as soon as the *Council* sate, I sent a *Petition* to the *King* and *Lords*, in which I shewed them what *Mr. Cheek* had done; and withal, that it was contrary not only to the practice of the *Tower*, but to their own late positive Commands; that his pretence for his arbitrary proceeding was, because I refu-

sed

ſed him thoſe *Fees*, which I had already paid, and ſo I ſtated my *Caſe*. I added further, That ſuppoſing I had been his *Debtor*, yet I knew that that *illuſtrious Board* would never ſuffer them who had the charge of *Priſoners*, to be their own *Judges* and *Carvers*. This was publickly read, but the *King* thought fit not to order any thing thereupon; for there happen'd alſo at the ſame time other *Petitions* about *Fees*; and his *Majeſty* (as I was informed) had hints before-hand, how prejudicial it would be to his *Officers*, if he countenanc'd thoſe that refuſed the paying of them. But tho' he order'd nothing (as I ſaid) in this Affair; yet, I believe, the *Lieutenant* was adviſ'd to be a little careful of what he did; for he ſeemed afterwards not ſo rigorous as in the beginning; and truly (for my own part) I thought, by this his more civil carriage, he was convinc'd that I had Right on my ſide, and conſequently that he would not purſue the buſineſs any further.

Within a while after, *Hilary* 1682. *Term* began, and asking then the *opinion* of ſome *Friends*, what I had beſt

do; they told me, That I had sufficiently acquainted the *Court* with my desire of *Tryal*; that doubtless the *King's Council* had already resolved whom to *try* and whom to *bail*; that it would perchance disgust them to be further pressed by me, because it might shock and interfere with their present measures; that my best way was therefore to expect their pleasure; and that certainly I should in course be either suddenly brought to *Bar*, or *bail'd*. I was no way averse to this *Advice*, knowing that if the worst came to the worst, the following *Term* (being that of *Easter*) would put me *in statu quo*; and truly I found no help till then. Therefore resolving to be no longer behind-hand, I order'd my *Councel* to demand *Tryal* on the very first day of the said *Term*, and to have it *recorded* also. This was done accordingly, and on the last of it, (my *Bill* being found by the *Grand-Jury*) I was to be try'd or set at liberty in *Trinity Term*, which beginning within less than *three weeks* after, I thought it not worth the troubling of my self or friends, to take the advantage of the *late Act* as to *Bail* in the mean while. When

Easter Term, 1680.

When this *Term* came, I was forc'd to a very unuſual trouble and charge, *viz.* to move for my *Arraignment*, and to pay for the *Habeas Corpus*, &c. which brought me down. Now the reaſon why I thus preſſed on, was, becauſe if the day of my *Tryal* were not appointed, (which I knew could not, or would not be till I were *arraign'd*) ſeveral of my *Witneſſes* might fail me in coming to *Town*; and then if *Mr. Attorney* (at the latter end of the ſaid *Term*) ſhould tell me he was ready, *I muſt either enter theſe Liſts* unarm'd, or take it as a mighty favour to lye in *Priſon* till *Michaelmas*. So much then for the *Preliminaries*; and now for my *Arraignment* and *Tryal*. *Trin. Term, 80.*

My Arraignment and Tryal.

ON *Tueſday* the 15*th.* of *June*, 1680. I was *arraign'd* at the *King's-Bench Bar*, *for intending to diſturb the peace of the Kingdom, to kill the King, levy War, and alter* My Arraignment and Tryal.

the eſtabliſh'd Religion to the Superſtition of the Church of Rome; to which after I had pleaded *Not Guilty*, and put my ſelf upon my *Country*, I was remanded to the *Tower*, *Wedneſday* 23*d.* being appointed for my *Tryal*. About 8 of the *clock* that day, I was again brought by *Mr. Lieutenant* to the ſame *Bar*, and towards 9 the *Tryal* began with the uſual *Proclamations* and Formalities. *Sir John Cutler* was *Foreman* of the *Jury*, and next to him *Sir Reginald Foſter*; but when *Roger Jenyns of Hayes Eſq;* was call'd, I acquainted the Judges, *That that Gentleman was my near Relation, and that I left it to their Lordſhips to determine whether he ſhould ſtand or no.* The *Court* was well ſatisfi'd with this procedure, intimating, that I depended (it ſeem'd) more on my *Innocence* than *Friends*, and ſo laying *Mr. Jenyns* aſide, *Mr. Harriot* ſucceeded. *Mr. Cheney* follow'd him; but upon *Mr. Johnſon*'s appearance, I ſaid to this effect; *That tho' I had not hitherto challeng'd any body, yet I was unwilling that my Jury ſhould be compoſed wholly of ſuch as were intereſted in the late Attainders about the Plot; therefore to*

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ſave their Lordſhips ſome time and trouble, I deſir'd them to order, that no more of thoſe Gentlemen ſhould be propos'd to me. The *Ch. Juſtice* anſwer'd, That it was the *Priſoner's* part, and not the *Courts* to except; therefore *your Lordſhip* muſt do it (ſays he) your ſelf, when you think you are aggriev'd. I repli'd, That I ſpoke not this reflectingly, and to ſhow alſo, that I had nothing particular againſt *Mr. Johnſon*, I was contented he ſhould ſtand, who thereupon took his *Oath*; nor did I make any further ſtop, only when two (who were often call'd) could not eaſily get into *Court* for the preſs, I bade the *Clerk* go on, the next on the *Roll* ſupplying their places; ſo that the *twelve* ſworn were theſe that follow:

Sir John Cutler. *Franc. Dorrington* Eſq;
Sir Regin. Foſter. *Hugh Squire* Eſq;
Tho. Harriot Eſq; *Charles Good* Eſq;
Rich. Cheney Eſq; *John Pulford* Eſq;
The. Johnſon Eſq; *Edward Clayton* Eſq;
Joh. Roberts Eſq; *Francis Mayo* Eſq;

And here the Reader *may already ſee how reſolv'd* Combes, Advertiſement.

the late Publiſher *of my* Tryal *was, to render it as diſadvantagious to me as he could, when he omits theſe Particulars even at the very Empanelling of the* Jury; *which of themſelves, (had they no relation to my Candour and Plain-dealing) were yet as fit to be mention'd as any other matter. Nor is he more ingenuous in the ſequel, for he ſtrangely mangles and lames as well the* Evidence *of* my Witneſſes, *as my* own Anſwers; *and to make the whole the more imperfect and obſcure, he leaves out, and confounds what he pleaſes all along*; nay, *to ſhow his falſhood almoſt in every thing, he makes* Mr. Juſtice Raimond *to ſpeak extreamly often, tho' he ſaid not one word to me all the while. This, I confeſs, may be yet gather'd by his* Relation, *that I was almoſt continually interrupted, ſo that it was ſtill with the utmoſt do, before I could bring any Argument or Inference to the leaſt head. But truly I am not to wonder at the indirect way of publiſhing Tranſactions of this nature, ſince every* Tryal *is complain'd of by thoſe that were preſent; and therefore, I think, beſides my own* Notes, *the early getting under their hands a full* Account *of what my* Witneſſes *have*

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attested, was no impertinent or over-cautious Action. And thus, Reader, *begging pardon for the present Digression, I shall now proceed.*

After this, the *Indictment* was again read; and when the *King's Councel*, (viz. *Mr. Attorney*, *Mr. Sollicitor*, *Sir George Jeoffries*, and *Sir Fr. Withens*) had dilated on it, they call'd for *Mr. Oates*; but as I was about to speak, I found two Difficulties therein; the one from the *Auditory*, who often desir'd me *to raise my voice*; and the other from *Mr. Attorney*, who interrupting me, said, *It was not time yet*; notwithstanding I went on, what I spoke being to this purpose; *That I had* (*as their* Lordships *well knew by my often demanding* Tryal) *long wish'd for that happy day, as the ready means not only of obtaining my Liberty, but of shewing the World how much I had been calumniated and wronged; that I had pleaded* Not Guilty, *and now threw my self into the Protection of that Excellent* Court, and Seat of Justice, *where I should find* (*I was sure*) *their* Lordships *as well my* Councel *as my* Judges, *and receive also of them all the le-*

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gal Favours usually granted Prisoners. *Mr. Attorney* interrupting me again, before I had quite ended the last words; the *Ch. Justice* ask'd, *If I had any thing against* Mr. Oates; meaning (as I suppos'd) a legal Impediment, why he should not be heard? I answer'd, *No; but that I threw my self into the Protection of the Court, and was ready now to hear what the* Man *had to say*; whereupon he was sworn, and then he accus'd me thus:

Mr. Oate's Evidence. That in the *year* 77. after his Negotiation for some months in *Spain*, (where he had seen *Letters* from me to the *Fathers* there) He, at his return home (in *November*) brought several *Letters* with him, and *one* among the rest to me, the Contents of which he saw; That it express'd, how zealous they of *Spain* were, in joyning with those of *England* to carry on the *Design*; by which *word*, they ever meant the *King's Death*, and *bringing in Popery*; that he deliver'd the said *Letter* to *Provincial Strange* at *London* for me, and saw afterwards at *St. Omers* a *Letter* of mine, *which* (*to his remembrance*

ance) was the first he had seen; where-
n I acknowledg'd the receipt of that he
rought me from *Spain*, and rejoyc'd
t the good opinion the *Spanish Fathers*
ad of me; that he (being privy to the
Jesuits Letters) saw also several others
ubscrib'd sometimes **Palmer**, sometimes
Castlemain, and own'd also for mine;
hat by and by he would give the *Court*
n account how he knew my *Hand*;
hat in *March* there came another from
ne, which rejected the Advice of the
Rectors of Liege *and* Gant; who desir'd
o have the *Secular Clergie* engag'd;
for I thought them to be a loose sort of men,
of no Principles, and consequently unfit to
be trusted. He further said, (after seve-
al *Interrogations* by the *Court*) that I
was not, he thinks, at the *great April*
Consult, at least he does not accuse me
of it, but that he saw me in *May* 78. at
Wild-house, where he brought Messages
o the *Fathers*; that I much desir'd there
an *Association* with the *Benedictine*
Monks; that he knew me not then, nor
ould swear that I knew him, nor that
there were any words about *killing the*
King, or other *Treason*; yet he believes

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the Discourse was bad enough; tha
on the 20th of the following *June*, as h
was going about 7 or 8 a *clock* in th
Evening with *Mr. Langworth*, to drin
a kind of Ale in *Fuller's Rents*, whic
the said *Mr. Langworth* lik'd, they me
me in *Lincolns-Inne-fields*; that *Mr*
Langworth saluting me, recommende
him the said *Mr. Oates* as one serviceabl
in the present business; and also told him
who I was, *bidding him take notice of me*
that we went all to *Mr. Fenwick's* Cham
ber, where they acquainted me with
the Transactions of the *April Consult*, i
relation to the *Death* of the *King*, an
the *introducing* of the *Catholick Religion*
for *Mr. Oates* thinks, I did not know
the Particulars of the *Design* before
Whereupon I said openly to them, *That*
now I should be reveng'd for the Injuries
done me. As for the manner how h
came to know my *Hand*, it was (h
said) by seeing me then write the *Super-*
scription of a *Letter*, which I gave him to
carry to the *general Post-house* in *Lon-*
don, it being about 11 at night; nor di
he remember, that any body came in to
us then at *Mr. Fenwick's*, except the *Mai*
that brought us *Drink*. Now

Now towards the *close* of the *Charge*, I began to ask *Mr. Oates* ſeveral Queſtions; for (in theſe *Tryals* about the *Plot*) the Accus'd were ſtill admoniſh'd to ſtay, till the *Witneſs* had finiſh'd his Evidence; but firſt I bade him repeat his *Journey*, which he did thus; *That he went to* Spain *in* Apr. 77. *that he return'd in* November; *that about* December *he came to* St. Omers, *from whence in* March *he went to* Liege, *and in* April (ſome few days before the *Conſult*) to *London*. *When you met me* (*ſaid I*) *in* Lincolns-Inn-fields) *was I in a Coach or on foot?* On foot, anſwer'd he. *Was there any body with me?* I cannot remember that, repli'd he. But ſome in the *Court* ſaid, *'Twas probable I was alone.* Whereupon I then anſwer'd, That *Mr. Oates* was the firſt, I believed, that ever ſaw me in *Lincolns-Inn-fields* alone, and on foot. *You ſaw, Mr. Oates,* (*continu'd I*) *Letters from me in* Spain? Yes, anſwer'd he. *Do not you ſay,* Mr. Oates, (*reply'd I*) *that you did not know me at* Fenwick's *Chamber?* I did not know you (anſwer'd he) at *Wild-houſe*, which was the firſt place I met you at. But he came to know you,

(ſaid

(said the *Ch. Justice*) by *Langworth's* means in *Lincolns-Inne-fields*, and so you went together to *Fenwick's*. *Did you*, Mr. Oates (said I) *ever see me, or discourse with me after?* Not to *my remembrance*, (answer'd he.) *Did you ever see me, said I, at* Liege? No, answer'd he; I came thither over night, (with one that was to take *Orders*) and return'd next morning. *Did you see me in any other place beyond Sea, said I again?* No, repli'd he. *Mr. Oates*, (said I) you lay to my charge here, the saying in *Mr. Fenwicks* Chamber, *that I should now be reveng'd*; did not you in pursuance of this Story before the *King* accuse me, *that you had seen a Divorce sued out by me at* Rome? I will (answer'd he) give Evidence about that, when *your Lordship* is indicted of *Priesthood*. But I pressing him again, and the *Court* telling him, that he must answer my *Questions*; *Mr. Attorney* with great earnestness said, *That it was foreign, and spoken in another place, and that I propos'd it only to entrap and catch* Mr. Oates. *Catch him*, repli'd I? *I confess it, and that all my Questions are for that intent; but how can any thing be*

foreign, that proves him a Lyar and an ill man? and how can one be catch'd that speaks Truth, being also sure of a favourable hearing in his explanation, and the King's Council to back it? Therefore, Mr. Oates, *(continu'd I) did you tell the King or no, that you saw it?* I said, (answer'd he) that it was the *Report* among the *Fathers*; and it was also part of the *Discourse* at *Wild-house*; for there I heard my *Lord Castlemain* say, *that he had been at great Charges about the Divorce.* But did not you (repli'd I) tell the *King, you saw the Divorce in* Mr. Strange *his hands, and that he shew'd it you?* I told the *King*, (answer'd he) that I saw an Account of the *Divorce* in *Strange* his hand. Here *Sir Geo. Jeoffries* also began to find fault with my *Questions* as foreign; and *Mr. Attorney* said, that, if such *foreign Questions* might be ask'd, no body could defend himself. 'Tis not, *Mr. Attorney*, (answer'd the *Ch. Justice*) so very remote, if my *Lord* would come to application. *Mr. Attorney* repli'd, That any man might be catch'd at that rate; that what he spoke was for methods sake, and to avoid excursions. *My Lords*, (said

(ſaid I) *I deſire I may go on with what I have to ſay; no man can be catch'd that ſpeaks truth; nor will* Mr. Attorney *give me leave to catch* Mr. Oates. He anſwer'd, That I had liberty in whatever belong'd to the *Evidence*. I come to ſhow (repli'd I) the fitneſs of my *Queſtion* in this Affair; for *Mr. Oates* having accus'd me of being at *Wild-houſe*, of *meeting him in* Lincolns-Inn fields, of aſſenting to the *King's Death, becauſe I would be reveng'd*; therefore ſince he has brought the *King* upon the Stage, I'le now refreſh his Memory, by telling him what he accus'd me of before his *Majeſty*, as alſo before your *Lordſhips* in this *Court*; *therefore*, Mr. Oates, *did you ſay you ſaw a Divorce or no?* I do not remember, (anſwer'd he) that I ſaid ſo; but I remember you ſaid, you had been at great Expence about one. I hope now (*my Lord*) (repli'd *Mr. Attorney*) he has given you a ſatisfactory *Anſwer*. 'Tis very well at preſent, (anſwer'd I) and ſo we ended for that time.

This is the ſum of his *Charge*, and all the material *Queſtions* and *Anſwers* to it; but as he was going out of *Court*, I de-

desir'd he might not stir, till the end of the Tryal, unless it were a general Priviledge allow'd to *Witnesses*, which being determin'd in the Affirmative, I rested satisfied, and then *Mr. Dangerfield* took his place.

Now before he was sworn, I told the *Judges*, that he could not, I conceiv'd, be a Witness, and therefore pray'd he might be laid aside. The *Ch. Justice* ask'd, Why? Because (answer'd I) he has committed so many enormous Crimes, and those upon *Record*, that by Law he cannot be heard in any Court of Judicature. What *Records* (repli'd the *Ch. Justice*) have you? There are *fourteen* (answer'd I) already found; but not to be too troublesome to your *Lordships*, I only offer you *six*; which prove how he has been *pillor'd*, *burnt in the hand*, and even *outlaw'd for Felony*; whereupon my *Sollicitor* (being call'd) deliver'd them to the *Clerk*.

The 1*st*. *Record* show'd, *That having*, * Anno 73. *stolen from one* Mr. Blagrave, *a Cabinet worth* 10 l. *and* 10 *pieces of Gold in it, he was convicted of the Fact, and burnt in the hand at the* Old-Baily.

* 25 Car. 2.

* 27 Car. 2. Mar. 1. The 2d. prov'd, *That being*, * Anno 75. *at* Chelmsford-Aſſizes, (*held before* Sir Thomas Twiſden) *indicted, for ſtealing from one* Tatterſon 4 l. 10 s. *he broke Priſon before he could be tryed, and was thereupon outlaw'd.*

The 3d. 4th. and 5th. ſhow'd, *That* * 29 Car. 2. Aug. 4 *at the* Aſſizes, * Anno 77. (*held for the* County of Wilts) *he had three ſeveral Indictments brought againſt him for venting falſe Guinneys, and that being upon each convicted before* Sir Thomas Jones, *he was condemn'd to ſtand with a Paper on his Forehead three ſeveral days in the* Pillory, *and that twice (as Witneſſes in Court would prove) he ſtood at* Salisbury, *but broke (before the* 3d. *time) Priſon, and got away.*

The 6th. *was a Conviction at the* Old- * 30 Car. 2. May 16. Baily, * Anno 78. *of his again venting falſe Guinneys, for which (beſides Impriſonment) he was fined* 50 l. Sir Tho. Jones *being then alſo one of the Judges.*

Theſe were the Heads of the *Records*; but it being now a *Point in Law*, whether *Dangerfield* could be heard as a *Wit-*

Witneſs, I demanded *Councel* to argue it; and had *Mr. Jones*, *Mr. Sanders*, and *Mr. Darnel*, aſſign'd me. *Mr. Jones* ſaid he was not prepar'd; *Mr. Sanders* happen'd not to be in *Court*; ſo that *Mr. Darnel* addreſſing himſelf to the *Judges*, very learnedly ſpake to this effect:

I conceive (with ſubmiſſion to your *Lordſhips*) that notwithſtanding this *Pardon*, *Dangerfield* cannot be a *Witneſs*, becauſe the *Pardon* hath only taken away the *Puniſhment*, and not the *Guilt* of his Offence. *My Lords*, It is adjudg'd in * 11 *Hen.* 4. That a man attainted of Felony, (as *Dangerfield* is) tho' he be afterwards pardon'd, cannot be ſworn of a *Jury*. Of the ſame opinion alſo was the Court of *Common-Pleas* in 9 *Jacobi*, as we find it in *Brownlow's* and *Goldsborough's* * Reports; and my *Lord Cook* in *Brown's* and *Craſhaw's* Caſe, (reported by *Mr. Bulſtrode*) was of the ſame * opinion; *viz.* That a man attainted, tho' pardon'd, can never ſerve upon an Inqueſt, and conſequently cannot be a Witneſs in any

* *Fol.* 41.

* *Fol.* 34.

* 2*d. Rep. fol.* 154.

Caſe; and the Reaſon he gave was, becauſe he is not *Probus & legalis homo*; for, (ſays he) *Pœna mori poteſt, culpa perennis erit.* In *Mr. Brownlow's* * 2d. *Report*, 'tis adjudg'd, That if the *King* pardons a man attainted for giving a falſe Verdict, yet he ſhall not be at another time impanell'd upon any *Jury*; for tho' the *Puniſhment* be pardon'd, the *Guilt* remains: Upon which Authorities I humbly ſubmit to your Judgments, whether *Dangerfield* can be a Witneſs.

* Fol. 47.

Mr. Attorney on the contrary urg'd, That the *King's Pardon* had not only taken away the *Puniſhment*, but the *Guilt* alſo, and ſo clears the Perſon from the Crime and Infamy; and for this, he cited the Caſe in *Fitz-Herbert Coron*, where, in an *Appeal of Felony*, the *Defendant* offer'd *Tryal by Battel*, and the *Plaintiff* counterpleaded it by ſaying, The *Defendant* being apprehended, eſcap'd and brake *Priſon*, which preſumes a guiltineſs; but (proceeds he) if the *King* pardons that *breaking of Priſon*, the *Defendant* ſhall be reſtored to the *Battel*, and the *Counterplea* taken away.

Mr.

Mr. Sollicitor argu'd to the same purpose; That the *Kings Pardon* doth not only clear the *Offence* it self, but all the *Dependencies*, *Penalties*, and *Disabilities* incident to it. *Mr. Sergeant Jeofferies* cited *Cuddington's Case*, in my Lord *Hobart's Reports*, That the *Pardon* takes away the *Reatum* as well as the *Pœnam*; and he said besides, That the constant *Practice* at the *Old-Baily* had been, to admit an *attainted Felon* after his *Pardon* to be a *Witness*; and this *Sir Francis Withens* did also much insist upon. The Court answer'd as to the *Practice*, That perhaps no Exception had been made to it by the Parties concern'd; but doubting a little *Mr. Darnel's* Citations, they call'd for the Books, and finding them true, sent *Mr. Justice Raimond* to the *Common-Pleas* for their Opinion, which was, *That a man attainted* (as Dangerfield) *upon an Outlawry for Felony, could not be a Witness, tho' pardon'd; but if attainted, and burnt in the hand, he might.* Now this being thought the present *Case*, tho' since upon further consideration it is found to have been a mistake; for *Dangerfield* was not *burnt in the hand*

for the *Felony* upon which he was *Outlaw'd*, but lately pardon'd; ſo that by reaſon of that *Attainder*, he can never be again a *legal Witneſs*. I ſay, this being thought the preſent *Caſe*, the *Court* told me, as they did before, that tho' he were to be heard, yet any *Record* to invalidate his Teſtimony, and ſhow what a man he was, ſhould be read and conſider'd; and thereupon he was *ſworn*, the *Diſpute* having laſted above an hour.

Dangerfield's Evidence. His *Evidence* was this; That being ſent to me with a *Letter* from my *Lady Powis*, which he gave me, I diſpatch'd him back with an *Anſwer*, which her *Ladiſhip* open'd and read aloud in his preſence, *Mrs. Cellier* being alſo by: That the ſaid *Anſwer* expreſs'd a liking of him the ſaid *Dangerfield*, as a fit man to inſtruct the *Youths*, who were ſent from *St. Omers* againſt *Mr. Oates*: *That I did teach thoſe Youths what to ſay at the Tryals*: That when any *One* was out of his *Part*, it was common for to ſay, *I muſt go to my* Lord Caſtlemain; and being ask'd by the *Ch. Juſtice*, Who ſaid ſo? He anſwer'd, That

That among others, he heard *Gifford* say it: That I order'd the taking *Lane* out of *Prison*; That I approv'd of the *Letters* and *List of Names*, which he brought me from *Mr. Nevil*, alias *Pain*, to be convey'd into the Houses of the *Presbyterians*, being all to the same effect with those he had already put into *Col. Mansel*'s Chamber, tending to the credit of the *Sham-Plot*: That to this end I order'd him to imploy men to transcribe the said *Letters*: That I being inform'd by a *Letter* from him, that the Persons imploy'd had finish'd their Work, I sent him by a *Messenger* (that is now in *Court*) 40 *s.* having sent as much more to *Mrs. Cellier*, as she told him: That in the middle of *August*, 79. he (*Dangerfield*) came to me, (and one of my Servants that was by, being sent away) I said to him, (with a very austere countenance, and like one that meditated Revenge) *Why did you refuse to perform what the Lords in the Tower propos'd to you?* He ask'd, *If it were to kill the King?* And I answer'd, Yes; but seeing me in fury, he ran down stairs, and never came to me more: That (as

he thinks) I was then writing the *Compendium*; for he saw some words in a *Paragraph*, which he afterwards saw in the *printed Book*, and I had also then a Pen in my hand and Ink by: That I us'd to call the *King* TYRANT; and being ask'd how and upon what occasion I said so; He answer'd, That if he demanded of me (for example) when *his Majesty* return'd from *Windsor*? I would say, When the *Tyrant* pleases; and he heard me use the word to *Mrs. Cellier* in *Powis-house*.

Now the chief *Question* which I ask'd him was; Whether I were not angry for his going to the *Tower* to my *Lord Powis* and the rest in my Name, about printing the *Jesuits Speeches*, and therefore forbade *Mrs. Cellier* from ever sending him any more to my *House*; telling her withal, *If he came, I would order my Servants to kick him?* This he absolutely deni'd; and then I said, I should now (with the *Courts* Permission) produce *Evidence* to disprove what had been alledg'd against me, and that I would begin with *Mr. Oates*; tho' I could not but rejoyce, that *Mr. Dangerfield* was re-

ceiv'd

ceiv'd as a *Witness*, since every word that he had mention'd to them should be proved a notorious *Lye*.

Mr. *Parker* and the *Hastings* Record.

The 1*st* thing I offer'd, was, (after the calling for *Mr. Parker*) a *Record* from *Hastings*, which show'd, *that* Mr. Oates *had* (Anno 1675.) *accus'd this* Parker *of Sodomy, and that He having been try'd for it, was by the Jury brought in Not Guilty.* The *Ch. Justice* ask'd me, What I meant by this; for it follow'd not (he said) because the *Jury* did not find a Charge, that therefore the *Accuser* was to be deem'd forsworn? I do not (my *Lord*) (repli'd I) say he must; but I urge this *Record*, to prove that he did accuse one whom the *Jury* found innocent; and then I shall show by *Witnesses*, the Motives that induc'd the *Jury* to their *Verdict*; to wit, The known antecedent Malice of *Mr. Oates* against *Mr. Parker*, and the positive Testimony of *Neighbours* against him; for some averr'd, *That they being then in, or near the Place where the Fact was said to be committed, saw not* Mr. Parker *there*; and others, *That* Mr. Parker *was with them all that Afternoon at a mer-*

merry Meeting. Mr. Justice Dolbin answer'd, That *Mr. Oates* stood not there to answer all pretended faults; and the *Ch. Justice* ask'd, That supposing it true, that *Mr. Oates* prosecuted a man for *Felony*, and the *Jury* acquitted him, what use could I make of it? For, according to my Doctrine, (there being in most Cases Witnesses on both sides) the *Defendants* Evidence must be perjur'd when it goes for the *Plaintiff*, and the *Plaintiffs* when it goes for the *Defendant*. *My Lord*, (answer'd I) this is my Inference, *Parker* is innocent, and *Oates* is his positive Accuser, of a capital Crime, when he the said *Parker* was in another place, which shows his malicious Villany and Practice. The *Ch. Justice* repli'd, That no body knew the Motives of the Jury but themselves; and that the business amounted to nothing. Here is also, (said I) an *Order of Council*, which shows how malicious and design'd *Mr. Oates* his Accusation was; for whilst this young *Parker* was in Prison, expecting his *Tryal*, the said *Mr. Oates* (to take all comfort and assistance from him) accuses his *Father*, (who was a *Justice of the Peace*,

Peace, and a conſiderable man in the Town) of ſcandalous words againſt the *Lords of the Privy Council*, and ſo ſecuring him by a *Meſſenger*, he remain'd in Cuſtody, till the *King* (upon the examination of the whole Matter at the *Board*) declar'd him wrong'd; and then diſmiſſing him, ſent away *Oates* with the greateſt Contempt imaginable. Was this, ſays the *Ch. Juſtice*, before the *Plot?* Yes, *my Lord*, anſwer'd I. 'Tis of no moment, repli'd he. It plainly ſhows (ſays I) what kind of man *Mr. Oates* was, and therefore I refer it to the *Jury's* Conſideration. The *Jury* anſwer'd, (*Sir Geo. Jeoffries*) muſt not take notice of it; for it ſignifies nothing; and thereupon *Parker* (who came to ſhow all the Particulars of that Matter) withdrew, without being heard. What has your *Lordſhip* more to ſay (continues the *Ch. Juſtice?*) Having thus, (*my Lord*) (ſaid I) ſhow'd you ſome of *Mr. Oates* his Actions whilſt he was a *Proteſtant*, I will now acquaint you with others after his becoming a *Papiſt*; and firſt I will bring you one who made him of that *Religion*, and whom Mr. *Oates* has

has ſince re-converted to be a *Proteſtant*. Why then (anſwer'd the *Ch. Juſtice*) there's a *Rowland* for your *Oliver*.

Mr. *Berry*. Mr. *Berry*, alias *Hutchinſon*, (who was the man) appear'd at Call; and I, to ſhow the ſaid *Berry*'s familiarity and great acquaintance with Mr. *Oates*, demanded, If he had not formerly *reconcil'd* him, and made him a *Papiſt*? He anſwering, *Yes*; the *Ch. Juſtice* ſaid, I ought not to ask ſuch Queſtions as might endanger his life; and preſently the *King's Council* charg'd him with *Treaſon*? I repli'd, That he had been a *Popiſh Prieſt*, but was now converted, and had publickly acknowledg'd his Errors. At laſt, after a great deal of do, he was commanded to tell what he knew of Mr. *Oates*, and then he ſpoke thus:

That at his coming out of the Countrey, about *April* 77. he found Mr. *Oates* ready to go to *Valadolid*, where he went to ſtudy his *Philoſophy* and *Divinity*: That he receiv'd from thence *Letters* from him: That in the *Winter* following, (when he came to *London* again) he underſtood Mr. *Oates* was re-

return'd, and gone to be a *Scholar* at St. *Omers*: That in the *Summer* after, he met with Mr. *Oates* in Town, who told him, That he had left the *Colledge*, *and that he would suffer no more for Conscience, it being a hard thing to want Bread*: That finding Mr. *Oates* in so poor a condition, he the said Mr. *Berry*, imploy'd him to write several by-things for him, and gave him 10 *s.* for his pains: That Mr. *Oates* did much complain of the *Jesuits*, because they did not regard him; and said, *That they had offer'd him a Butler's place*: That after the *Discovery* made by Mr. *Oates*, he the said Mr. *Berry* went and question'd him very much about the things he had accus'd the *Jesuits* of, saying, that he heard, that the *Scholars* of St. *Omers*, (who were at least *sixscore* in number) and not only vertuous persons, as he (Mr. *Berry*) well knew, but often commended as such by Mr. *Oates* himself) could witness his being at the *Colledge* with them, when he pretended his being here in Town; to which Mr. *Oates* answer'd, *That he valu'd not what they could say, for they were all outlaw'd persons*; and further Mr. *Berry* said, that Mr.

Oates

Oates was very kind to him, and gave him 20 *s.*

Mr. *Berry* having given this *Evidence*, and Mr. *Oates* denying all that pung'd, the said Mr. *Berry* began to exhort him to *speak Truth, and to remember there was a God in Heaven*, with more to that purpose; but the *King's Council* instead of applauding his *Sermon*, laid again *Treason* to his charge, *as having perswaded a Subject to the Popish Religion, and having no Pardon.* They press'd therefore to have his *Confession* recorded, and him consequently secur'd. Then one of them turning to me, said, (in a tone audible enough at least to those at, or about the Bar) That by abounding in my own sence, I had brought my *Witness* to the *Gallows*; and ask'd also my Counsel, if he had methodiz'd that excellent Evidence? I repeated to him, *That Mr.* Berry's *Conversion to the* Protestant *Religion had wip'd away all faults of that nature*; nor knew I what to say more, but to tell him, if he had a mind to hang his *Converts*, he might. Now whilst the *Court* and the *King's Council* were arguing, Mr. *Berry* slipt away, which being

t last perceiv'd, they commanded him o be recall'd; and then the *Ch. Justice* sked him, *What Religion he was of?* He nswer'd, *A Protestant.* The *King's Council* notwithstanding insisted still to have his foresaid *Confession* recorded, which made the *Ch. Justice* at last declare, that it should be done, in case any body made *Oath* of it; But, several being called, and refusing to do it, a grave and *Reverend* Divine, (who was *Dean of Rippon*, as I was told) rose up and acquainted the *Court*, that this Mr. *Berry* was his *Curate at* Barking; that the *Bishop of* London, having heard something against his Preaching, had sent him (the said *Doctor*) word, that he would provide him another; and that last *Saturday* at Dinner his *Lordship* told him, he was distracted. Mr. *Oates* presently acknowledg'd, that he had known, and look'd upon him to be such a one; and so without more words he was dismiss'd.

Then I called for one Mr. *Armstrong*, and ask'd him, Mr. *Armstrong.*

If he had not been Mr. *Oates*'s Schoolfellow at *Valladolid?* He answer'd, Yes; and so I desir'd him to tell the *Court* in what

what condition Mr. *Oates* lived there. He said, That he himself came not to *Valladolid* till about *Sept.* 77. Mr. *Oates* having been there some three months before him: That Mr. *Oates* was only a *Scholar* like himself and others, sitting at the same *Table*, and going to the same *School* with them, till his departure. Mr. *Oates* answer'd, That he was ready to *Commence*, when *Armstrong* and other *Youths* came, who being but *Strangers*, and not understanding their *Philosophical Dictates*, *the Fathers desir'd him*, (Oates) *to teach them, and to show them the way to School, which he twice or thrice did.* *Armstrong* repli'd, That it was not so, and that *Oates* was but a *Scholar* himself as the rest were.

Mr. *Palmer*, and Mr. *Dorrington*. After this I called for Mr. *Dorrington* and Mr. *Palmer*; Mr. *Palmer* first appearing, I entreated him to give an account of Mr. *Oates's* condition at St. *Omers*; who said, That *Oates* was but a *Scholar* there whilst he stay'd; that he still went to *School*, and play'd with the rest of the *School-boys*; but being an ancient man, he had more freedom than the rest, and

so

so sate at a *by-Table* in the *Refectory*, between the *Fathers* and *Scholars*. Mr. *Dorrington* could not for the Crowd presently get into *Court*; but way being at last made, I ask'd him the same thing, which he affirm'd, and so retir'd.

The next Call was for Mr. *Grigson* and *Ellen Rigby*; *Grigson* coming in, I ask'd him, if Mr. *Oates* were not his *Lodger*? He answer'd, *Yes*, at *Easter*, 77. as also after; and in short declar'd, that he was in a poor condition during his stay with him. Mr. *Oates* ask'd *Grigson*, if Mr. *Fenwick* had never paid for him? He said, Yes, after he came from St. *Omers*. As for *Ellen Rigby*, I said, she was ready to testifie, (as she had done in Sir *Geo. Wakeman's Tryal*) That Mr. *Oates* us'd (in the year 78.) to beg of Mr. *Pickering* in the *Savoy*, and that at last she had Orders (as being a Servant there) not to let him come in any more. The *Court* intimated, that they had heard this of her formerly, and therefore I told her she might retire, as she did, without speaking. Besides Mr. *Oates* deni'd not his poor condition, but confest, *he had nothing to live upon* Mr. *Grigson*, and *Rigby*.

but what he was allow'd by the Jesuits; Whereupon the *Court* said, *that it seem'd they allow'd him but very meanly.*

These *Witnesses* being gone, I ask'd Mr. *Oates*, whether he did not say, he came over with Mr. *Hildesley* to the *Consult* in *April* 1678? He answer'd, *Yes*; and then Mr. *Hildesley* was call'd, who absolutely deni'd his coming over with him. The *Court* said, That this business had already been before them, and that Mr. *Oates* his being then in Town was proved by others. I do not (repli'd I) come now to meddle with that business, neither shall I bring any old thing before the *Court*, without some new proof or inference; and thereupon I called one Mr. *Osborn*, who declar'd to this purpose; That in *April* 78. he met Mr. *Hildesley* newly come from St. *Omers*, and discoursing with him about their former *School-fellows*, and what new ones were then there, Mr. *Hildesley* said, He had left there among others a *Minister* at School called *Sampson Lucy*, his true Name being *Oates*; but that he demean'd himself so ill, that

Mr *Hildesley*.

Mr. *Osborn*.

he believ'd he would be sent away as soon as the *Provincial* came. To show also that this was no invention of Mr. *Osborn*, I told the *Court* I had some *Ladies* of quality ready (one of them being a *Protestant*) to witness, that Mr. *Osborn* had told them this very Story at that time, to wit in *Apr.* 78. Advertisement. *For the* Reader *must know, that these collateral Witnesses talking (it seems) about a Gentlewoman in Barkshire, Mr. Osborn (their near Relation being by) acquainted them, that he had that day met with a Kinsman of hers, to wit, his old School-fellow* Hildesley, *who was newly come from St.* Omers, *and so told them the Discourse they had had together; which passage being remembred by the Protestant Lady, after Mr.* Oates's *Discovery, made her much more question the truth of his Information, when once she found that he pretended to come over with the said* Hildesley.

I insisted much upon this *Evidence*, as a Confirmation of *Hildesley*'s Testimony, and consequently that *Oates* came not over with him, as he swears; and Mr. *Justice Jones* was pleas'd to repeat my

Inference; but the *Ch. Justice* (upon my offering the collateral Witnesses) told me, that it was needless to call them, except I could bring some that came over with *Hildesley*; the thing otherwise being still a *Hear-say*; yet the *Jury* might, if they pleas'd, consider it. Mr. *Justice Dolben* also thought it but a *Hear-say*, and that therefore it brought with it no new force or value.

This business being thus over I call'd for Mr. *Lytcott*, another of my Witnesses, to prove, *that I had never offer'd at a Divorce*, and consequently that even Mr. *Oates*'s present Testimony, of my declaring, *that I had spent much money about one*, was a lye. Having therefore desir'd him to speak, he said, *That it was morally impossible there should be a Divorce, because (he knew) there was never such a Design.* The *Court* not liking the Issue, seem'd from the beginning to discourage it, which I desir'd, they would not do; but Sir *George Geoffries*, to discountenance it further, would have it, that all that my *Witness* had to say was, *That he never knew of any*; and Mr. *Justice Dolben* was pleas'd to think

the Evidence could be of no moment. But I urg'd, that it would certainly be material; for if he proved, (as I knew both he and others could) that I never endeavour'd at a *Divorce*, then it was false that I spent money about one. Besides Mr. *Oates*, (as should be prov'd, if their Lordships had forgotten it) had accus'd me, even in that very *Court* before their *Lordships*, as also before the *King* and *Council*, and before the *House of Commons*, *That he saw the Divorce which I sued for*; Therefore having never offer'd at it——The *Court* (interrupting me here) asked, What then? and that I must not go to prove what was not pertinent to the Question; or what was said in another place, tho' false. But I insisting, that he had now at this very Tryal charg'd me with saying, *That I had spent much money about the Divorce*, whenas I had never aim'd at it; my *Lord Chief Justice* said, He would acquaint me with the usual proceedings of a *Court* in this nature; *viz.* That if I should come to prove a Falshood sworn by Mr. *Oates* in another place, they were not to take notice of it, since I must have first prov'd

him perjur'd, which was not their buſineſs now to try; for if what I pretended to were granted, I might make what *Witneſs* I pleas'd a *Lyar*, becauſe being unprepar'd he could not defend himſelf; But if Mr. *Oates* ſwore in another place, contrary to what he here aſſerts, it would be a very proper and fit thing to ſhow. Now (continu'd he) Mr. *Oates* only ſwears, *he does not remember he had ſeen the Divorce*, but remembers you ſaid, *You had ſpent much money about em*, which comes only to an *Hear-ſay* from your Lordſhip. I anſwer'd as I had done before, That I never ſo much as offer'd at one, and therefore could not ſpend money about it: That his ſeeing of it was his conſtant charge, and that if he ly'd in one thing, he might do ſo in another. I further ſaid, That I would have indicted him for *Perjury* long ago, if I might; for to that end I had ſent to the *Clerk of the Peace*, for Copies of the *Indictments* againſt Mr. *Ireland*, and Mr. *Langhorn*, according to my *Councel's* Directions, but that he would not deliver them without Mr. *Attorney's* Warrant, who refus'd one, tho' often ſolici-

ted, as those that waited upon him could attest. I bade them (answer'd *Mr. Attorney*) first petition the *King* and *Council* for an *Order*, and when they did so, it was not granted them. I know (repli'd I) that the *Council* would not; but yet I did all I could in the Affair. The *Court* still deeming Mr. *Oates*'s Testimony of my saying, *I had spent much money about a Divorce*, no contradiction; and his former averring, *that he saw one*; a foreign thing. I urg'd again, That he had averr'd it in that very *Court* before their *Lordships*; which they all allow'd me, they did not remember. Finding it therefore ungrateful to bring this business to a further examination, I submitted the whole to them, tho' I offer'd to prove, what they had forgotten; and so I bade Mr. *Lytcott* withdraw.

Mr. *Duddel*, and Mrs. *Cellier*.

Then the *Court* commanded the *Records* (already mentioned against *Dangerfield*) to be read; which being done, I call'd for one Mr. *Duddel*, (who had been formerly a *Witness* subpœna'd against Mrs. *Cellier* by *Dangerfield*) as also for Mrs. *Cellier* her self. At her appearing some

of the Auditory began to *hiss*; but upon my entreating the *Judges* to forbid that *Bear-Garden* proceeding, there was a ſtop put to it, nor was there the leaſt offer at any other rudeneſs during the whole *Tryal*. I ask'd then Mrs. *Cellier*, Whether I had not chidden her at *Dangerfield*'s, going to the *Tower* in my Name to the *Earl of Powis* and the reſt, about printing the *Jeſuits Speeches*; and whether I did not tell her, *If ever Dangerfield came more to my Houſe, I would make my Servant kick him?* She acknowledg'd all to be true, affirming, that it happen'd on that very * day twelve-month; beſides, ſhe proteſted, ſhe would have ſent him after to me with a *Letter*, but that he refus'd it, ſaying, he would rather go a hundred miles than come near me. But *Dangerfield* denying all, Mr. *Duddel* poſitively witneſſed, *That the ſaid* Dangerfield *had (about a week after the Execution of the five Jeſuits) expreſs'd to him the great trouble he was in at my anger, for his going to the Tower as aforeſaid.*

* *June* 23. 79.

My Lady *Powis*. I deſir'd alſo that my *Lady Powis* (who then hap-

happen'd to be in *Court*) might be ask'd, Whether she had written to me by *Dangerfield*, as he had sworn? Which being done, her *Ladiship* (standing in her place) solemnly declar'd, *She never sent Letter to me, or any body else by* Dangerfield; *that she receiv'd none from me, nor from any body else by him; nor ever read one to any body in his presence. Mrs. Celliere* being call'd back, declar'd also, that she never knew or heard of any thus brought from me. And then I acquainted the *Judges*, that I would now disprove *the Lye, of my teaching the St.* Omers *Scholars their Lesson, as* Dangerfield *said I had done*; but the *King's Council* hinder'd me, by calling of *Counter-Witnesses* to confirm my *Adversaries* Testimony; and these were *Sir Richard Barker, Mr. Lawson, Mr. Turner, and one Woodman*, who all testifi'd as follows:

Sir *Richard Barker* began, and related (as he had done in the *Jesuits* and Mr. *Langhorn's Tryal*) how his Servants acquainted him of Mr. *Oates's* being at his House before *Whitsuntide* 78. but upon my telling the *Court*, Sir R. Barker.

Court, that I medled not now with that Matter, the *Knight* was diſmiſs'd; and ſo there was no need of his *Maid* or *Boy*, who were at hand, as the *King's Council* inform'd the *Court*. *Mr. Lawſon* was next call'd upon; and as ſoon as he appeared, *Mr. Juſtice Dolben* gave him great Commendations, as being a Gentleman's Son of Quality, and a very honeſt man; as alſo, that tho' he were my *Solicitor*, yet he would not (he was ſure) ſay an Untruth; or words to that purpoſe. But before he was ſworn, *Mr. Attorney* put him by, and call'd *Turner*, which proceeded (as we ſince found) from this; That he (the ſaid *Mr. Lawſon*) being ſubpœna'd by *Dangerfield* the night before, had declared to ſome of his Acquaintance, *That he was ſo far from ſeeing* Dangerfield *at my Houſe in* Auguſt 78. *that he was gone out of Town long before to the North, to attend that Circuit.* Now this Evidence (ſo diametrically oppoſite to *Dangerfield's Oath*) would have demonſtrated his falſhood; and therefore having timely notice of it, He, or ſome of his Gang caus'd *Mr. Attorney* to ſtop, as I mention'd;

Mr. *Lawſon.*

tion'd; and *Turner* being call'd, was ask'd, When he saw *Dangerfield* last at my House? The man appearing in as great confusion and disorder, as any one can be imagin'd that comes into so great an Assembly, answer'd, *That he could not exactly tell.* The *Court* bade him tell as near as he could. He repli'd, *He believ'd in June, about Mr. Langhorn's Tryal.* Might it not have been (said the *Chief Justice*) in *July?* He answer'd, *He thought it might.* But why (said the *Ch. Justice* again) might it not be in *August?* He (continuing still confus'd) answer'd, *He could not be positive, but he believ'd it was in July.* Did you then see *Dangerfield* (said the *Court*) with my *Lord?* *No,* (answer'd he) *As I was coming down stairs, I saw him in a Room below waiting.* *Woodman* being call'd, was question'd about money brought from me; who said, That he was sent to my *House* with a Letter from *Mrs. Cellier* by her *Daughter* (as he remembers) for *money*; and that he receiv'd there about 3 *l.* But being ask'd, Whether it were for *Dangerfield?* he re-

Mr. Turner.

Woodman.

repli'd, *He knew nothing of that, but thought it was for the Prisoners.*

These are all the *Witnesses pro* and *con*; and now I call'd for *Mr. Lytcott* again, as one of my *Witnesses* to disprove *Dangerfield's Lye* about my Teaching the *St. Omers Scholars*; for I confess, that I was more concern'd at this Calumny, than at all the rest; But when *Mr. Justice Dolben* told me, that he would undertake it would be time lost, I thought it better to wave a thing not absolutely material, than to displease and put the *Court* out of humour: Therefore addressing my self to the *Bench*, I said; *That I would now with their permission make a Recapitulation of what had past'd*; and so going to peruse my *Notes*, (for I had written a great deal) the *Ch. Justice* repli'd, That I might do as I thought fit, but that he must be gone. Wherefore several about me hinted, That the *Court* and *Jury* were all tired, by reason of the excessive heat, (for I had been near 6 hours at the *Bar*, and 5 in my *Tryal*:) That there was but one Witness at most against me: That all was plain, that the *Judges* would fully give an account of every

every thing; and that more words would rather be a prejudice, than otherwise. This had no little weight with me; and besides it would be infinitely advantagious for me, (I knew) to have at the close all the *Judges* present, to give their Opinion as to *Dangerfield's* Testimony. Therefore to make short work of it, which I saw would be grateful, I was willing the *Ch. Justice* should presently sum up the *Evidence*; who having begun, was interrupted by the *Attorney*; for he told him, that he had something to say. His *Lordship* desiring him to be short, *because the King had sent for him*, he urg'd, That there were two positive *Witnesses*; that tho' something might be objected against *Dangerfield*, yet *Robberies* were to be discover'd by *Robbers*, and *Treason* by *Traitors*; that notwithstanding he had formerly been dishonest, he might be otherwise now; and that *Turner* had prov'd his being at my House in *July* or *August*. Upon this again I offer'd at my *Defence*, but the *Ch. Justice* rose up to be gone; therefore considering with my self the former Reasons, as also that my

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Defence could be but natural Inferences, from what my *Accusers*, or my own Witnesses had affirmed, (which (methought) might occur to any body at the bare summing up of things) I desir'd his *Lordship* to stay, telling him, that I had done; and then he began to this effect:

First he told the *Attorney*, that, had he not interrupted him, yet he would have omitted nothing now mention'd, as being nicely careful when the *King's* Life is concern'd. Then he shew'd what *Mr. Oates* had alledg'd; and said, I had thrown but little upon him by way of Infamy; For if the *Verdict of Hastings* were material, every *Witness* must be accus'd when a *Jury* goes against his Testimony. That *Hildesley* denies his coming over with him in the Pacquet Boat, but yet it was probable, that *Mr. Oates* was here, which I seem'd to admit. That the *Jury* must consider things probable and improbable, or else that the confidence of a *Swearer* might take away any man's life. That truly he understood not, how I could be so free, when *Mr. Oates neither* knew me, *nor knows* whe-

ther

ther I *knew him*; That *Mr. Oates* says to this; That, I must needs have seen that the *Jesuits* entrusted him, and therefore was the more confident of him, when I spoke so plainly to him in *Mr. Fenwincks* Chamber; but how far this *Oath* was to be taken, the *Jury* must consider. That as for *Dangerfield*, tho' nothing infamous were prov'd against *Oates*, yet there was enough against him; That 'tis the Duty of a *Judge* to make just Observations to the *Jury*; That tho' a man may be a *Witness in Law*, yet they must consider his *Credit*; That had he been only a *Traytor*, he had been as good a *Witness* as *Oates*, but that 6 *Enormous Crimes* are against him, and whether a *man* can presently become a *Saint* by being a *Witness*, they were also to consider. That in disproof of *Dangerfield* my *Lady Powis* and *Mis. Cellier* affirm'd no Letter was sent from me; That it had been prov'd too, that I forbid him my House in *June* or the begining of *July*, and that he then declared he had rather go 100 miles than come near me; which not only contradicts, what he depos'd, to wit, *That I was never angry*

with

with him before he refus'd the Treason propos'd by me; but shows also a great improbability, that I would be thus angry with him for going to the *Tower* in my name, and so angry also upon his refusing to kill the *King*. That *Turner* cannot charge himself whether he were at my House in *June*, *July* or *August*, but thinks only it was in *July*; That there was a great difference between *Oates* and *Dangerfield*, for one might be believ'd, when perchance the other might not; That if two *Witnesses* be produc'd, and one only of *Credit*, there is but one *Witness* to be reckon'd to the matter; and one was not enough to find a man *Guilty of Treason*; in which *Opinion* all the *Judges* did unanimously agree, and *Mr. Justice Dolben* added this, *That since the Law required two Witnesses that they must necessarily be both believed.*

In this manner the *Chief Justice* sum'd the Evidence which was approv'd of by the rest; and tho' it were so clear, that he who afterwards should have condemn'd me, would have done it (I dare say) *if one had risen from the Dead*, yet it was not (I must confess) all I intended,

ded, especially in relation to *Mr. Oates* as I shall presently show the *Reader*. As soon then as *his Lordship* had ended, he went away, & the *Jury* withdrew to their *Chamber*, where they remained so long, that it occasion'd various discourses and guesses all about; for some would have it an infallible sign of my *Condemnation*; but others were of the contrary sentiment, as thinking that too much haste might disparage the Plot, and raise doubts, whether what had already past, were well done. In fine (after above an hours stay) they returned, and no sooner pronounced their *Verdict*, Not Guilty, but it was approv'd with a great *shout* over all the Hall, which was seconded by another in the *Palace-yard*; and truly I must needs say, that I found every body extremely satisfied with my success, as I past through the Crowd to my Coach. I mention not this, as if I thought any Catholick (and much less my self) popular, but I do it to show that no people are naturally so well pleased with the preservation of a *Fellow-Subject*, as *Englishmen*, and consequently how necessary it is to ferment their Pas-

sions, and to put them quite beside themselves, before their humour can turn bloudy and inhumane.

These are the *Particulars* of my *Tryal*; And now it will not be (I suppose) disgustful to the *Reader*, if I give him an Account (as I hinted before) of my intended *Defence*; for I took *Notes* all along, and so drew these plain and obvious *Deductions* from the *Premisses*.

My Defence.

My Defence. THat of any *Crime*, I never thought *Treason* would be laid to my charge, who still ran in a contrary career, as not a few about the *King* himself well knew. That I was not a little satisfi'd, (since 'twas my *Fate* to be accus'd) that my two *Adversaries*, (as had been shown) were persons well known to his *Majesty* and his Illustrious *Council*; the one in old Mr. *Parker*'s Case, to say no more of it; and the other a *Forger of Treasonable*

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Letters to entrap the Innocent, as *Dangerfield's* * *Commitment* (by the *Board*) to *Newgate*, upon *Col. Manſel's* account, tells the World in expreſs terms. That (in the *1ſt.* place) as for *Mr. Oates*, who pretends to have been ſuch a Negotiator in *Spain* and *Flanders*, where he perus'd and read my *Letters*, (and who makes himſelf alſo ſo neceſſary an Inſtrument, and Manager here in *England*, that few, if any, conceal'd their *Treaſon* from him) it has been prov'd by his very *School-fellows*, that he was but an *ordinary Scholar*, both at *Valladolid* and St. *Omers*, going all that while to *School* as the reſt did, and continuing ſo to the day of his departure. That at his return to *London*, (tho' it were in the heat of the *Plot*, and principal time of the *Tranſactions* in queſtion) he is found to have been in the moſt lamentable and contemptible condition that could be imagin'd; *as tranſcribing of* common Papers *towards a Livelihood*; *as getting* Mr. Fenwick *out of charity to pay ſometimes for his poor Lodging*; *as begging Alms at the* Savoy *in theſe his great and viſible neceſſities*;

* Oct. 79. *Dang. Nar.* p. 49.

and as being ſo little eſteeem'd and valu'd by the Jeſuits, *that they thought a* Butler's *place a ſufficient preferment for him*; Nay the *Witneſſes* were very many, that could prove this *wretched Poverty* of his, and he himſelf has confeſs'd it; a thing very ſtrange, ſuppoſing him only a *Confederate* with ordinary men in an ordinary matter; but yet more wonderful, had he had (as he tells us) the Lives and Fortunes of the chiefeſt *Catholicks* thus hanging on his Lips. That as for Mr. *Berry*, if he were ever *diſtemper'd in his Brain*, it was not of late, I mean, *ſince the Biſhop gave him the Cure of Souls, and leave to preach*, as he preſently did upon his *Recantation*, (which was not long after the *Diſcovery* of the *Plot*) and yet then, he the ſaid Mr. *Berry* acquainted the *King* and his prime *Miniſters*, with moſt of the preſent Particulars; After which Mr. *Oates* was pleas'd to be very kind to him both in money and fair words. That it was very improbable, that at the firſt daſh, and at the bare Recommendation of a *Jeſuit*, I ſhould, without any neceſſity, communicate the higheſt *Treaſon* to a Stranger, *who knew*

not

not me, and with whom I never had any acquaintance, either before or after, as he himſelf acknowledg'd; and this alſo to one of no *Garb*, of no ſeeming extraordinary *parts*, and ſo mean alſo in his rank and condition, that I ſent him (as he himſelf ſays) to the *general Poſt-houſe* in *London* with a *Letter*: Nor is this *Letter* pretended to have Treaſon in it; for he tells us, that he only ſaw its *Superſcription*; and yet had it been of that nature, any *Servant*, any *Footman* of mine, or even any known *Porter*, might have been as well truſted with it as a *fellow-Plotter*, the main danger being at the *Poſt-houſe*, where *Letters* lye at ſix and ſevens, and are alſo often open'd in ſuſpitious times by Authority. That it was hardly credible for him *not to remember* (as he now ſwears) *that he ſaid he had ſeen my Divorce*, ſince he publickly accus'd me of it *four times*; to wit, before the *Commons*; before the *Juſtices of* Weſtminſter, who by an Order of that *Houſe* firſt committed me; before the *Judges* of this *Court*, and before the *King* in *Councel*, even to my very face. That as to his coming over with

Mr. *Hildesley* in *April* 78. Mr. *Hildesley* not only denies it, but Mr. *Osborn* acknowledges, that he told him so in that very month, even when there could be no possible end or design in *Hildesley* to lye; and Mr. *Osborn* is so far from a capacity of being suborn'd, that there are even *Protestant Witnesses* of quality, to vouch his *Evidence* That it was very unlikely, that I should inveigh in a *Letter* of mine against the *Seculars*, since most of the *Catholicks* in *Town*, and several *Protestants* in *Court* will testifie, that none ever belong'd to me but a *Secular*; nor was the whole *Body* of the *Clergie* otherwise than very kind to me both at home and abroad. That I call *God* to witness, that instead of Mr. *Langworth*'s recommending of Mr. *Oates* to me, or my speaking *Treason* in his hearing, I never heard his *Name* mention'd, (that I know of) till after the *Discovery* of the *Plot*; nor ever saw his face, till I met him in this *Court*, even after my first Imprisonment. That I hope my word (having always liv'd with repute among my Acquaintance) shall be sooner taken, than a man's who has already (as appear

pears by the Accuſation of *young Parker*) been cenſur'd and disbelievd even by Juries themſelves, where he was their Miniſter; and this upon account of evil practices, as I have ſhown, and as Mr. *Parker* wou'd have fully prov'd; nor ſhould I have fail'd of convicting him long ago of *Perjury*, had I not been hinder'd in it as aforeſaid. That Mr. *Oates's Falſhood*, and conſequently my *Acquittal*, reflects no more on the *Votes* of the two precedent *Parliaments* concerning the *Plot*, than it does on the Integrity of the *Grand Jury*, which found the preſent *Bill*; for as they could lawfully (upon *Oath* made) declare it *Billa vera*, and therefore that the Party accus'd ought to be try'd for his life, ſo the *Parliament* upon like Information might juſtly put the *People* upon their guard, and ſecuring the ſuſpected, call whom they pleas'd to the *Bar of Juſtice*, which was the intent and ſcope of that *Vote*. Neither could a *Diſcovery* or Detection of his ill *Practices* now, any ways arraign the *Courts*, that ſentenc'd Mr. *Coleman* and the reſt, ſince *Courts* can do no more than hear, and afterwards judge,

as verily they think and believe. That Mr. *Oates* has moſt evidently * *contradicted* himſelf even in this *Tryal*, in ſaying, (*a*) *That he ſaw Letters of mine in* Spain; for upon another queſtion, *the* (*b*) *firſt he had ſeen, were* (*as near as he can remember*) *at St.* Omers; and yet he went not thither, according to his own confeſſion, *in* (*c*) *ſeveral weeks after his Return from* Spain. Beſides, the words, *As near as I can remember*, confirm further the Abuſe, ſhowing us the whole Myſtery, and how the falſe-Step happen'd; *viz.* That the queſtion about the *St.* Omer *Letters* being caſual, and he having forgotten the *Account* given of his *Spaniſh Intrigues*, the Affirmation *Yes*, occurr'd next to his thoughts, adding to it only his uſual phraſe, *As near as I can remember*; for 'tis ſeldom or never that he is poſitive in any *Anſwer*, eſpecially if he be ſtrictly

(*a*) Pag. 22

(*b*) P. 12.

(*c*) P. 16.

* *N. B.* Leſt any body ſhould queſtion whether Mr. *Oates* did thus contradict himſelf, the Reader is to know, that the Particulars are all mention'd, even by his Friend, the late Publiſher of this Tryal, as the Pages in the Margin ſhow.

preſs'd

preſs'd and put to it. In the next place, (after that notorious Shuffle, *of his not remembring, that he ſaid he had ſeen my Divorce*) he mends the buſineſs with ſwearing, that part of our *Diſcourſe* at (*d*) *Wild-houſe*, was about that matter; as alſo, that he heard my *Lord Caſtlemain* ſay there, *That he had been at great charge to carry on the buſineſs of the Divorce*; and yet *twice* before he poſitively affirms, *That he* (*e*) *knew me not at* Wild-houſe. Again, To evade (if he could) Mr. *Armſtrong*'s material Evidence of his (the ſaid *Oates*'s) being but an *ordinary Scholar* at *Valladolid*; *for he went to the ſame School with him and the reſt, and lived as the others did, without diſtinction*; nay Mr. *Berry* alſo, (by Mr. *Oates*'s own *Letters*) witneſs'd the ſame thing: I ſay, to avoid this, he would have it, *That, by the deſires, forſooth, of the Fathers, he went only twice or thrice to ſhow them the way to School*; which is ſo wild an Invention, that it equals any contradiction whatſoever; for how can a man imagine, that the *Fathers* ſhould ſend a *Stranger*, and one alſo that came to *treat*

(*d*) P. 25.

(*e*) P. 23.

and

and *consult* about *Affairs of State*, and things of the highest consequence, to show *young Scholars* the *Logick School*, when as the meanest wretch in the *House* could do it as well, and better; nor was the employment fit for any other. And as one stumble still occasions more, so this puts Mr. *Oates* upon averring, that He taught the Youths their *Philosophical Dictates*: a most excellent and apposite *Office* for an *Extraordinary Envoy*, and more especially when every body that knows him, knows what a *Philosopher* and *Clerk* he is.

To conclude then with him; That I do again and again recommend to my Jury's Consideration his Procedure against the *Parkers*, as a thing which History can never pass by, and which must most evidently show them what a man he is; for if a *Witness* has already in a criminal Charge been found by a *Jury* of his Neighbours and Acquaintance to be of a malicious humour, to alledge Particulars that several of known Integrity have disprov'd, and consequently that he was not to be believ'd, what Jury that is convinc'd of the said Procedure,

can afterwards depend on his bare Testimony in an Accusation of the like nature, especially when it is as apparent as the day, how far his Interest as well as Malice is thereby gratify'd.

Now for *Dangerfield* he is so notorious and scandalous, that there is no man perchance in *England* against whom there have been more *recorded Villanies* produced; so that if the Law stops not his mouth, yet his many nefarious crimes have taken all *Credit* from him; That (among his great and sundry Transgressions) he has already been convicted and punish'd for falsly accusing *Col. Mansel of Treason*, and if he has been once thus faulty, why not again, especially since there is nothing but his own prostituted word to make good his Accusation? That I had no manner of acquaintance with him, but as he was sent on Ordinary Errands by *Mrs. Cellier*, *viz.* for the weekly Allowance to the *poor Prisoners*, for the boarding of my *Witnesses*, who lay at her House, and the like. That finding that he went to the *Earl of Powis* and others at the *Tower* in my name, about Printing the *Jesuits Speeches*,

Speeches, I fell out with *Mrs. Cellier*, and told her, *That if ever he came again to my House I would have him kickt*; That this great displeasure of mine was not only confess'd by *Dangerfield*, when I was examin'd by the *King* and *Councel*, but is proved now both by *Mrs. Cellier* and *Mr. Duddel*, whom He (the said *Dangerfield*) complain'd of it to; That 'tis incredible that I should presently talk *Treason*, to one whom I had so severely treated; and 'tis yet more incredible, that I should be thus open to him, and then terrifie him with my words and gestures so, as to make him (as he swears) run down Stairs, and to be gone for good and all. That it is a falshood, and contradiction too, to say, *He was taken out of Newgate by the Lords in the Tower to kill the King*, since his first admittance to them was long after, and this also by a trick, *viz.* a pretended message in my name, which made me so angry with him *that I threatned to have him kickt* (as *aforesaid*) *if ever he came near me more.* Besides how ridiculous it is, to say, that the *Lords* (were they the greatest *Traytors* in the World) would propose to an

an unknown Fellow such a *Design*, who was sure of a better reward by discovering it, than they could give for doing it. That it is a prodigious and unparallel'd Impudence, and of a sad consequence also, to have a *Witness* thus mince and inlarge his Evidence at pleasure; for at the *Councel* when I was Committed, he only charg'd me with being angry with him for not doing what the *Lords proposed*, but never said, I express'd what the *Proposal* was; whereas he accuses me at present of absolutely confessing it to be *the killing of his Majesty*, tho' it be non-sence and incredible, as has been shown; and that his former *Accusation* was only thus, I appeal not only to his * *Narrative*, but to the *King* himself and all the *Lords* that attended him there in *Councel*. That 'tis evident that *Dangerfield* calls for *Counter-Witnesses* only to confound and to perplex (if he could) the business, for *Woodman* was sent (we see) by *Mrs. Cellier* or her *Daughter*; and the 3 *l.* brought by him was not for *Dangerfield*, but the *Prisoners*. *Turner* also knows not the time when he saw him at

* *vid. Dang. Nar. p.* 23.

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my House; for 'tis sometimes in *June*, sometimes in *July*; which is nothing to *August*, the month when *Dangerfield* swear's to have heard this *Treason*. Neither does *Turner* say, *he saw me and* Dangerfield *together, but that he was expecting below*; and who can tell had this been as late as *July* but he might come to speak with one of my *Foot-boys*? That it is false he ever carri'd *Letters* from me to the *Countess of Powis*, and she her self denies it, a *Lady* even more eminent for her known *Probity* and *Virtue*, than for her great Quality and Birth.

That lastly, it is a most apparent *Untruth*, *that I did teach the St.* Omer *Youths, what they were to witness*; for *Protestants* in *Court* can testifie, that being sent to St. *Omers* about *Christmas* 78. to know whether Mr. *Oates* had been there all *April* and *May*, as was asserted in Mr. *Ireland's Tryal*, they found it confirm'd by the whole *Colledge*, and saw *fourteen* of the chief *Scholars* (among which was *Gifford*) make *Oath* before the *City Magistrates*, *That the said* Oates *never lay out of the Colledge from the* 10th *of* Dec. 77. *to the* 23 *of* June *following*

but

but one night at Watten; *for that he the said* Oates *sitting at a distinct Table in the Refectory, and reading every Sunday and Holiday all* April, May, *and part of* June *in the Sodality, could not possibly be absent, (as he pretended) without every bodies taking notice of it.* Nor can this *Testimony* be invented by me to serve a present Turn, since the then *Certificate* of the *Premisses* (under the very Seal of that *City*) is not only here in *Court*, but printed in the *Compendium* before ever I was accus'd by *Dangerfield*; Nay, which is more, in the *Letter* from *Mons*, a *Pamphlet* of a much longer standing (as dated *Febr.* 19. 78. *old stile*) and publick several weeks here in *Town*, before ever the said *Dangerfield* was so much as taken out of *Prison*; for that happen'd not till *April*, as appears by his own * *Narrative*. All which evidently proves, that had those *Youths* (who were most of them also Lads of the upper Forms) been really taught what they had affirm'd at the *Old Baily*, they had their *Lesson* beyond Sea, and not from me.

* Pag. 6.

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My further Witnesses. This was the effect of my *Defence*, and truly tho' I had provided *Witnesses* to clear my self in every small particular, yet I found such trouble, at least towards the latter end of the *Tryal*, (when any pretence of tediousness, or impertinence could be objected) that I thought it also fit to omit the calling of them, notwithstanding they were *legally summon'd*, and ready in the *Hall* or *Court*, as my *Sollicitors* inform'd me. For first, I had subpœna'd Sir *John Nicholas*, who was present at my *Examination* before the *King* and *Council*, and could have consequently confirm'd (had it been needful) Mrs. *Celliers* and Mr. *Duddels* Testimony; for *Dangerfield* had acknowledg'd at the *Board*, That I had forbidden him my House at his going to the *Tower* in my name, as I formerly mention'd; and Sir *John* could not but know also, that *Oates* had sworn there, the seeing of my *Divorce*, &c. Secondly, Mr. *Cellier* was cited; for he could testifie, that being by when I chid his Wife, I had forbidden her from ever sending *Dangerfield* to me more. 3ly. Mr. *Gadbury*, who could witness, that he never

never had any discourse with *Dangerfield* about me, and thereby I should have shewn how falsly he had averr'd in his * *Narrative, That the said Mr.* Gadbury *was angry with him because he had displeased (by his timidity) the Lords in the Tower, and especially me, who had design'd to advance him, and help to make his Fortune.* 4ly. I had sent to Mr. *Nevil* (whom *Dangerfield* calls *my true Second, and one from whom I had Papers*) to attest, That I never receiv'd Paper from him in his life, nor sent him any; as also that I never consulted with him about, or spoke to him of any *Affidavits*, nor of any other matters that related to *Lane* or *Knox*, tho' *Dangerfield* had accus'd me of it in their *Tryal*. 5ly. *Justice Foster* to prove (as I heard he had done before the *Councel*) a *Forgery* committed by *Dangerfield*, since his very Pardon and his being one of the *Kings Witnesses*; for he had it seems shewn one *Hill* an *Affidavit* to swear to, and then presently *enterlining* it with some matters concerning the *Duke*, brought the said *Hill* to take his *Oath* before this *Magistrate*,

* Vid. *Dang.* first Nar. p. 25.

who like a worthy man, reading first the *Paper* to him, discover'd the Villany. I intended also to have had Mr. *Hill* himself in *Court*, had he not then been in *Execution* in the *Fleet*.

Mr. *Cheek*'s Pretences. The *Verdict* being thus given in, as I have said, I desir'd a *Relation* of mine to go to the *Gentlemen* of the *Jury*, and to acquaint them from me, that being extremely *sensible* how tired they must needs be, I should take it as a very particular Obligation, if they would let him attend them to some *Tavern*, till I could come my self and wait upon them. This he did, and in the mean while I staid at the *Bar*, expecting my *Discharge*; which going to be pronounc'd, Mr. *Cheek* rose up and told the *Court*, *that I had not yet paid my Fees*: Whereupon the *Judges* saying, that was a necessary *Duty*, I answer'd, I had already perform'd it. Mr. *Cheek* or his Counsel reply'd, That what I had paid to Sir *John Robinson*, was nothing to him. *My Lords*, (said I) No *Prisoner* is to pay but once; nor have I been any more than once so; for I was only upon Bail, and therefore never discharg'd fin-

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my first going to the *Tower*: The *Judges* upon this, stopt a little, and after a moments speaking together, Mr. *Justice Dolben* told me, that I was twice *committed*, and for that reason I must pay my *Fee* again. Pray my *Lord*, said I, let my *Counsel* argue the Point, and besides, what is the *Fee* I must pay, if it be due? We know not that, (reply'd Mr. Justice *Dolben*) but this we must tell you, you cannot be discharg'd till your *Fees* are paid; and so they rose, leaving *Mr. Lieutenant* and me in dispute; for he told me, that he would carry me to the *Tower* again, unless he were satisfy'd: and my answer was, *Let him do it at his peril.* In short, after some words on both sides, he commanded the *Gentleman-Jayler*, and the *Warders* that attended, to bring me back on pain of their *Suspension*; and then going out of the Court, I went from the *Bar* directly to the *Fleece*, where I understood my *Jury* were.

When I came up, I saluted them, and then spoke to this effect: That tho' I were not to thank them for their Justice, which notwithstanding I should never forget, yet I was to acknowledge the

present *favour* which brought me thus acquainted with so many extraordinary *Persons*, whom I had never so much as once seen before. Their return was like themselves, and as obliging as could be imagin'd; but nothing pleas'd me more, than that they seem'd unanimously to own me not only a *free man*, but an *honest man* also. I desir'd *Mr. Johnson* too in particular, to believe that it was not out of any Dislike or ill Opinion of him, that I made some little hesitation and stop at his being called to the Book; for that I had (I assured him) as great a value for him, as any of his Friends and Servants could have. He answer'd, that he was exceedingly satisfy'd with my carriage, and was confident also that the two other *Gentlemen* (whom I had accidentally pass'd by) were of the same sentiment. Not long after, and when we had all seated our selves, a *Gentleman* of quality (who was a friend both to *Mr. Cheek* and me) came to us, and desiring some few words aside, he told me, that to avoid noise, this difference must be accommodated. I answer'd him, That the time of doing it was past, it being

 already

already as publick as it could be; and therefore I ſhould now ſee what the *Law* ſaid in the *Caſe*, for if any thing were due to him, he ſhould have it to the utmoſt Farthing, if not, his bringing me to the *Tower* (a place I had no averſion to for a night, and eſpecially when it was to try an Experiment) might be a greater inconvenience to him than he was aware of. When he had done, I told the *Company*, ſince they were the prime men of the *County*, (and that therefore moſt buſineſs came before them) I ſhould again, I believ'd, trouble them with ſome Concerns of mine; and then gave an Account of the particulars of this Affair. They anſwer'd, that certainly the *Lieutenant* was ill adviſ'd, for that I had been (as they yet conceiv'd) but once a *Priſoner*, ſo that there could be but one *Fee* due.

In ſhort, after an agreeable Converſation of ſeveral hours with theſe worthy *Patriots*, (for their Diſcourſe ſtill tended to the intereſt and advantage of *England*) we parted, and then I ſent for the *Gentleman-Jaylor* and the *Warders*, telling them that I would go to the *Tower*,

if they durſt carry me. They anſwer'd, that they hop'd I would not be offended with them, ſeeing what they did was in Obedience to their *Superior's commands*. I reply'd, That every *Command of a Superior* was not to be obey'd; and then calling for my Coach, and taking the *Gentleman-Jaylor* with me (the reſt following in others) they brought me to my *Lodging*, but put no *Sentinel* in the Night-time at the door as formerly. In the morning I ſent to *Mr. Cheek* to know if my preſent Impriſonment were by his Orders. He anſwering *Yes*, I reſolv'd to ſtay all that day, and by accident I did ſo the next alſo; for he was gone, before I was up, to *Windſor*, and return'd not till it was very late.

I return'd to the *Tower*.

The day following (being Saturday the 26 of *June*) I went after Dinner to his Houſe, and told him, I was come to bid him Adieu, not doubting alſo but he would excuſe me, if out of Curioſity I askt why he had thus detain'd me a Priſoner? He anſwer'd, becauſe I had not paid him my *Fees*, and that the *Judges* themſelves had (as I ſaw) declar'd they could

could not discharge me till this were done. I reply'd, that he well knew (I suppos'd) the reason of my Refusal; to wit, *because I had paid them before*; that the *Judges* thought not fit to hear my *Councel* argue the matter, nor to tell me what these *Fees* were; that if his procedure were justifiable, it was well; and that (as for my own part) having done what I thought very convenient, I had no more to say, but to ask, what he demanded of me? He answer'd, that being a *Peer* there was 100 *l.* due to him; 10 *l.* to the Gentleman Porter, and 5 *l.* to the Gentleman Jaylor. I said, that by my *Tryal* he found I was no *Peer* in Law; and that, tho' few ever refus'd to be kind to the *Gentleman Jaylor*, yet a *Fee* for him I believ'd was never exacted before. He reply'd, that I was a *Peer*; that my *Lord Aston* had paid 100 *l.* and that what he demanded for the *Gentleman Jaylor* was his due; I told him that I was so far from disputing his demands, that if he requir'd yet more, it should be paid him, and that I would take my own time to examine the Legality. Then desiring him to order some body (as he

did) to receive those sums of my *Steward* at my Lodging, we parted; and so I went to take my leave of the *Lords*, whilst the money was telling. Within some little time after (when I thought all was done) my *Secretary* came to me, and said that *Mr. Cheek* refus'd to sign an *Acquittance*, which had caus'd my *Steward* to take back the money: I desir'd him to go to my *Councel* forthwith, and know what should be further done; who sent me word, that tho' every body look'd upon one as a strange Man that refus'd so reasonable a thing as an *Acquittance*, yet the Law obliged none to it, therefore *Witnesses* would be as good as his hand. Hearing this, I sent him back to *Mr. Cheek* to tell him, he might have the money, since my *Councel* had inform'd me, that *Witnesses* were as much to my purpose, as what was before requir'd. He answer'd, that so he had his dues, I might have as many as I pleas'd; upon which the money was paid him, and presently I took *Coach* and went home. This is the account of what pass'd between the *Lieutenant* and me; and since it was a very publick business, and

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one also that may again come upon the Stage, I thought it not amiss to inform the *Reader* with all the particulars that relate to it.

Having thus far put an end to the troubles which *Oates* and *Dangerfield* created me, I continu'd a while in *London* about my private Affairs, and then went down to my *Brother's* near *Windsor*; where I determin'd to stay till *Christmas*, or thereabouts, as the quietest and best time in Winter to pass the Seas. But the *Parliament* (assembling in *October*) sat not long, before I heard of *Turbervile's* odd Charge against me, specified soon after to this effect, in his printed *Narratives*: * *That he and several Priests were at Consults with me at* Powis *Castle*; * *That being with my Lord* Powis *in* Verestreet, *he heard me* (*about* May 78.) *say Mass*; and * *That he had also been at Confession with me.* Considering therefore, that the *Term* was already begun; that *Papist* it self was no good name; that *Priest* was a worse; and that should I chance to be confin'd

1680.

* First Nar. p. 10.

* Ibid. p. 12.

* 2d. Nar. p. 12.

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on this *Information*, I must necessarily continue so, to the end of *Hilary Term*, I thought it best to begin my intended Journey, and so with what convenient haste I could, I came over.

Mr. *Turbervile's* Falshood about my being at *Powis* Castle.

This then is Mr. *Turbervile's* Accusation, but how weak and idle, is evident by the very first part of it; to wit, his Allegation, *That I was at Consults with him at* Powis *Castle*, and yet I have not been so much as within those Walls, since the great *Plague* in 65. which is seven years before his admittance into that Family; for he came not there till * 72. even according to his second *Oath* and *Recollection*, which he call'd 73. in the * *first* Depositions. Now that what I affirm is true, appears by my Lord *Powis*'s Daughter the Lady *Mary*, (on whom he waited) who can depose, that she neither saw me, nor believes me to have been there, since the time aforesaid. In the like manner by my Lady *Frances*, and my Lady *Anne*, her two Sisters; by Sir *John Gifford*, who liv'd there a great while, and by all *my Lords Gentle-*

* 2d. Nar. p. 2.

* First Nar. p. 5.

Gentlemen, and the principal *Officers* of his Family; by the *Steward of my own Estate* in that County, who dwells near, and very often comes there; and lastly, by my *Friends* and *Relations* at *London*, that still knew from time to time where I was. I will also appeal to all the *Gentlemen of Montgomeryshire*, (most of whom I have the happiness to be known to, and to some nearly related) whether ever they saw me in those parts since the before-mentioned year. I will also appeal to the *Magistrates*, and *chief Inhabitants of Pool*, a place not only in, and about which my *Estate* lies, and my *Tenants* live, but so near the *Castle*, that it joyns in a manner to the *Park Pale*; so that a Stranger, that comes to *my Lord's*, is as much seen and talk'd of by them, as if he lodg'd in the Town it self. Nor can any body (tho' he considers as little as Mr. *Turbervile*) pretend that I was there privately intriguing; for no mad man would draw a certain suspicion on himself by a discovery, (which must necessarily happen in a vast Family, and in a Country where I was well known) when my publick appearing could raise

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in no Creature the leaſt jealouſie, having Concerns there to look after, and a *Kinſman* and *Friend* to viſit. Beſides, I can poſitively prove by ſeveral of Note and Credit, where I was any particular week theſe many years; for my being almoſt always out of *England* makes it eaſie, and beyond the reach of Diſpute or Difference.

'Tis true, that coming to *Paris* about *Chriſtmaſs* 71. and receiving there Letters from a *great Nobleman*, about a buſineſs, (publick enough afterwards) I ſtept over to *London* to wait upon him; but as I was again returning, (and had taken even leave of my Friends in general) there befel my *Brother Sir Philip Palmer* ſome Troubles, which (as many worthy men of the *Long Robe* well know) forc'd me to a very tedious ſtay, before I could compoſe them; nor did I during my whole abode in *England*, (which was ſomewhat above a twelvemonth) lye two nights together out of Town, (as not a few can witneſs) except in *October* 72. when I went with ſome *Relations* to my ſaid *Brother*'s Houſe, and there I alſo ſtay'd leſs than a week.

week. Nay ſo far was I from going into *Wales*, that my *Steward* brought me up my *Accounts* at the end of that year, and ſeveral of my *Montgomeryſhire Acquaintance* were pleas'd to come and ſee me, and among others my late *Lord Herbert of Cherbury*; ſo that had I been near him, I ſhould not have fail'd in what I was always wont to do, *viz.* of viſiting his *Lordſhip* when I came into the Countrey. But the Myſtery of Mr. *Turbervill*'s Story is, (for all *Fables* have their *Mythologie*) that a *Brother* of mine was a great part of the year 73. at *Powis-Caſtle*, as the *Gentlemen* of that *County* can atteſt. I ſpeak not this as if Mr. *Turberville* miſtook the one for the other, but to ſhow what gave the hints to his fancy; and certainly had I been there, I could not be ſuch a fool, (tho' *Papiſts* be the weakeſt men alive, if we judge by what is ſaid of them) as to deny it thus poſitively, when ſo many *Proteſtants* of repute and quality (whom I call upon) muſt needs riſe in judgment againſt me; and when the thing in it ſelf, even with Mr. *Turbervill*'s Comment to it, cannot affect or prejudice me, who

have been try'd and acquitted of all Treasons relating to the Plot.

Of my being a Priest. As for my being a *Priest*, (which at one time or other must be known, if I be one) I do not only positively deny it, but lay the *Lye* on the *Tenets of my Religion*, which doubtless I would not do, when *Catholicks* (they say) are so concern'd for its honour and interest, that they will die with an Untruth in their mouths, tho' it be (as we all confess and declare) *a damnable act, and a sin equal to that against the Holy Ghost.*

Of my saying Mass. In the next place, Whereas Mr. *Turberville* will have it, *That I said Mass to my Lord* Powis *at his Lodging in* Vere-street, I will be bound, that not only my *Lord*, my *Lady*, their *Children*, their chiefest *Attendants*, and Mr. *Percy*, (the *Master* of the House in *Vere-street*) but any *five*, *ten*, or *twenty*, of the prime *Catholicks of Quality* in *England* shall attest, that they have been so far from hearing my *Mass*, that they verily believe (for several weighty Reasons) that I am not in *Orders*. Now that I should impart this Secret to such a

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man as *Turberville*, who confesses upon Oath, * *That he made his Escape out of the Monastery he had entred into*, which shows how slight and unsteady a person he was, and consequently how little *zeal* he had for his *Religion* in general: I say, that I should impart this *Secret* to such a man, and not to my best Friends and Acquaintance, is an *Imagination* that becomes such a Witness.

* First Narrat. p. 7.

But to come yet closer to the business, Mr. *Turberville* and I have been so far from this wonderful intimacy and dearness, *That I protest I never saw him to my knowledge.* And because the *Gentleman*, and others in his present Post and Station, have often in reserve some poor forlorn wretch, (for I'le cast my self upon the Oath of any man of Repute and Estate) to vouch a by-Circumstance, which they know will be deni'd. I shall now prove this my Assertion, not only by the afore-named Testimony of my *Lord Powis*, my *Lady*, their *Children*, and those of the *best Note* in their *Family*, but by all my own *Servants* also; nay by *two* of Mr. *Turberville's Brothers*, and

and by ſeveral of Credit that know me and him, with the manner of his Life and Actions. For all theſe can and will teſtifie, that they never ſaw, heard, nor yet believe, that he had the leaſt Converſe or Acquaintance with me; whereas if his Tale were in any degree true, 'twould be impoſſible that they ſhould be all ignorant of it, eſpecially, *having been* (as he ſwears) *together at Powis-Caſtle*; and ſeeing alſo that my own *Domeſticks* muſt take notice (either ſooner or later) of thoſe that have any thing to do with me. Nor is it to be pretended even by Mr. *Turberville* himſelf, (notwithſtanding the great quickneſs of his Invention) that ſtill he came *incognito*, and by ſtealth to me; for how weak and ſilly muſt it appear to any child to hear it ſaid, that we (forſooth) were thus cautious, and made ſo many grimaces, and good morrows, when thoſe who are at preſent moſt charged with *plotting*, converſed always as openly together, as Friends, Neighbours, and Correſpondents uſually do. Therefore, *ſuper totam materiam*, to ſpeak in a *Schoolman's* phraſe, (and by the *Orders* given

given me, he has made me a piece of one) does not this his Evidence quadrate and agree with his former *solemn Deposition*; * *That his Popish Enemies (by reason of his leaving his Monastery) got at last his Brother* (who also serv'd my *Lord Powis*) *to disinherit him*; whereas not only his said *Brother* (as a bare Borderer on *Surry*) may have Children enough before his death; but he himself, (I mean, Mr. *Turberville* our Witness) is only a *fifth Brother*, and which is less, a *third* by a *second Venter*; so that a *Lawyer* of an ordinary size may tell us, what an *Heir at Law* he is (according to the custom of *England*) to this Estate, had none of the intermediate *Brothers* any Children.

* First Nar. p. 7.

Nay let the whole World judge, even the most partial men breathing, whether Mr. *Turberville*, that *ran away from his Monastery*, that had no *zeal for his Religion*, that *liv'd sharking* ever since, that *has turn'd Protestant*, at least presently after Mr. *Oates's* Discovery, (*for he was then actually sent down to* Glamorganshire *to catch Priests*) would not-

withstanding all *Encouragements* from the *Parliaments*, from the *King's reiterated Proclamations*, and from the whole *people* in general, suffer me, who was imprison'd from the beginning, and at last try'd for my life, to be legally and publickly acquitted, if his present *Charge* had been then thought of.

But tho' not one *Judge* perchance in *Westminster-Hall* could, (bating the contempt which people might justly have of the Charge) *prove himself no Priest*, if a Villain would point blanck swear it, yet I can by God's Providence, (besides what has already been alledg'd) make, *a priori*, the falshood of this Accusation evident; and thus I should have done long ago, had it been grateful at my *Tryal*, to show Mr. *Oates*'s small mistake about the *Divorce*; for the Circumstances that demonstrate the untruth of the one, would have done the same to the other; and then Mr. *Tuberville* had had a Buoy or Light-house to guide him from this Shallow, on which he has at last so strangely and childishly stranded.

Now that the *Reader* may also understand the Grounds

of this Fancy, and how it had its Riſe, he is to know, that reſolving with my ſelf, (ſome 7 years ſince) not to marry again, ſhould it be never ſo much in my power; and conſidering too, that it was the beſt time to ſettle my *Brother*, (or *Heir* at *Law*) in the World, if I intended him any real and ſolid advantage, by what might at length fall unto him, I thought fit to give him, and ſome others of my *Relations*, the greateſt part of my *Eſtate in preſent*, with the reſt in *Reverſion*, and then married him to his, and my own ſatisfaction. This being look'd upon by many as an unuſual Action, and ſome reflecting, that I (who took ſo much pleaſure in travelling) was now retired, and diverted my ſelf in turning over *Books*, and the like; as alſo that my Lady *Cleveland* had withdrawn her ſelf ſome few years after into a *Monaſtery*, (which is the common method of married people in the *Church of Rome*, that intend to change their ſtate of life) it preſently became bruited, *that I was, or ſhortly would be in Orders.* No wonder then if Mr. *Oates* made this a part of his *Accuſation*; and by the way I muſt

tell him, (that in my poor judgment) 'tis not only the chief flower of his Garden, to wit, the beſt grounded Charge, that ever yet came from him, but alſo manag'd with the moſt caution and wiſdom, qualities (as many think) not very natural to him; for he has here only ſworn, (as I ſhow'd before) *That he ſaw Letters* (*forſooth*) *ſignifying my ſaying Maſs*, and therefore could not be eaſily diſproved, were he never ſo much the Inventer of the Story. But if Mr. *Turberville* has been more bold and daring, and thereby run himſelf, (as I ſaid) on ground, he may yet urge this for himſelf; That (being engag'd, perhaps, by the prevalent Entreaty of ſpecial *Friends* to accuſe me) He was neceſſitated to this poor *Topick* of a *Prieſt*, ſeeing the Law had already acquitted me of the *Plot*; for otherwiſe we ſhould have had, (I warrant you) wonderful Particulars in Print from ſome or other, not only of late *Conſults at Powis-Caſtle*, (tho' I have not been there, as I mention'd, theſe 15 years) but of a conſtant correſpondency with him in his *Noviceſhip at Doway*, in his *French Expedition*, and in all his other *Adventures* alſo.

To

To end then with this *Gentleman*, I do here again proteſt and declare, *that his Accuſation againſt me, is falſe, both in part and in the whole*; and yet it is not to be wondred at as ſtrange, ſeeing *Prieſthood* has of late been ſworn againſt other *Laymen* as well as my ſelf; for upon this Account, and *Oates's Oath*, *Mr. Preſton* (as every body knows) was dragged from his very *Wife* into *Priſon*, where he lay above 18 months; and *old Mr. Gamen* (who had been but few years a *Widower*, and never out of *England*) was by ſuch a Depoſition ſolemnly arraign'd and tryed; and beſides, *Sir Thomas Gaſcoign* would perhaps have run the ſame riſque, had he not abſconded as ſoon as he got out of the *Tower*. I am ſure my being in *Orders* has no relation to the *Plot*, and puts not the leaſt grain into the Balance, ſince it will be no manner of way plainer than before, ſhould I be deemed not only a *Prieſt*, but a *Biſhop*. Nor would I (certainly) be aſham'd of a Function (were I of it) of which, men as great in Quality, as eminent in Learning, and as famous for San-

Several Laymen ſworn to be *Prieſts*.

ctity as *History* can ſhow, have been. Nay from the ſame fountain, and no other, the *Church of England* her ſelf derives her *Ordination*. Let me then ſay thus much to *Mr. Turberville* with my laſt *Adieu*; That ſhould God ever make me capable of this *State of life*, and incline me to it (for 'tis no ill action, even in *Law* to be a *Catholick Prieſt*, and ſtop there) if the Ceremony ſhould be perform'd in the moſt open and publick manner that can be thought of, that ſolemnity will be a perpetual *Record* againſt him, and conſequently an Evidence of the Injury he has done the Kingdom, to the manifeſting of his monſtrous folly and weakneſs in ſo groſs an accuſation.

So much then for Mr. *Turberville*; and here I ſhould have ended were I not obliged to ſay ſomething, to what *Sir William Jones* thought fit to mention of me in my Lord *Staffords Tryal*. 'He doubts there of *Mr. Lytcott*'s being *Fellow* of *Kings Colledge*, 'becauſe ſuch places are beſtow'd (he 'hopes) on more deſerving and leſs ſuſpi-'cious men, than he appears to be, that 'owns himſelf not only the *Secretary*, and 'con-

* vid. p. 177.

'continual Companion of one *so famous*
'*in the Popish Party as my Lord Castle-*
'*main* is, but to have gone also and taken
'*Notes* at several *Tryals*, for his *Lord's*
'service, who was concern'd in the Ac-
'cusation.

First for *Mr. Lytcott's* being *Fellow* of *Kings Colledge*, it will be acknowledg'd by the whole Body; and upon this account it was he became my *Secretary*; for having my self had the satisfaction and honour to be a *Fellow-Commoner* of that *Royal Foundation*, and consequently acquainted with very worthy and excellent men, I knew not (till some better occasion offer'd it self) how to express the great sence I had of their Favours and Civilities, but by having ever since my departure one of theirs still with me. Mr. *Lytcott* had, 'tis true, some other accidental Recommendations, as related to several persons of very considerable fashion and quality, whom I esteem'd; Nor do I by any means deny the giving him order to take *Notes* at *Tryals*; nay this, or the equivalent, I desir'd of others also, till I freed my self from the calumny of the *Plot*. But had

I known it a Crime against any Law either human or divine (and till I do, I cannot repent me of the Action) I should not have sent him, neither would he (I dare say) have gone; for his *Colledge*, and *Friends* cannot but own as well his great *Probity*, as his constant zeal for the *Government*. And as he (who very well knew it) attested, being summon'd to my *Lord Staffords* Tryal, *that I was not at Powis Castle in the years 72 nor 73*, so, by what I have here already shown, the whole matter has been prov'd and made good beyond the possibility of the least doubt or scruple.

In the next place, as to my being *so famous in the Popish Party*, as *Sir William* says I am, I do not know (I confess) what he means. Certainly that man is a very weak one, who (considering the hardships we struggle with, the Obloquy we lie under, and the mis-interpretation of all our actions) hopes to get *Fame* by being a *Papist*; but if this *Gentleman* puts *Fame* in the worst sence, (for the word has opposite significations) and so intimates, as if I were become to the World *Infamous*, by my *Religion* and *Practice*,

I ſhall here in a few words give him a true and ſhort account of both.

That I am a *Catholick*, I ſhall always acknowledge, as often as I am ask'd; but tho' my *Religion* were erronious, yet to me it muſt be a true and ſaving one, according to the *Principles* of our learnedſt *Adverſaries*; for I have often, and diligently *ſearcht the Scriptures*, which they own to be the *Rule of Faith*; I have earneſtly *pray'd to God* (as they require) *for his Illumination*; I have *argu'd with learned men*, a thing too enjoyn'd by them; I have always been *ready to give a Reaſon of my Belief, to whomſoever ſhould ask it of me*, according to the *Apoſtle*'s advice, and theirs; and laſtly, I have *read not only as much Controverſie*, as, perchance, moſt men of my age in *England*, but *twenty Proteſtant Books* (I dare ſay) for *one Catholick*, and yet ſtill I am the ſame. Nor will any body (I hope) pretend partiality or prepoſſeſſion in the caſe, ſeeing that muſt have much rather enclin'd me to the contrary ſide; for had I been of a *Religion* not obnoxious to the *Laws*, I might as well (it may be) have advanc'd my *Fortunes* as others, wanting

(I

(I thank God) neither *Relations, Friends*, nor *Estate* to give me a Rise or beginning. Nay so great a propensity have I still for the *Religion* of all *Governments*, and particularly my own, that I thus far declare with Mr. *Hobbs*, (who thought every body bound to be of his *Prince's* Faith) *that it is a great fault not to comply with the establish'd Practice in every particular, that is not truly sinful in my Judgment.*

'Tis *Conscience* then, that makes me a *Dissenter*, and therefore I may be pitied, but not blam'd; for should any *Turk* or *Jew* profess the *Gospel*, and yet in his heart think it false, he would be damn'd notwithstanding the verity of it. *Humane Reason* can demand nothing of one (as eminent *Protestants* tell us) but a *sincere Conviction*; nor does the profoundest among them propose more. And if that shocking *Article* to flesh and bloud, and reckon'd also by our *Enemies* as our most dangerous *Tenet*, (I mean *the real and substantial presence of Christ in the Sacrament*) blots not a *Lutheran* out of the *Book of Life*, why should it me? 'Tis true, we differ in the

Mode or Manner of his being there, but not in the *Reality*; ſo that as great hardſhips, and as ſeeming contradictions ariſe to man's capacity from the one, as from the other opinion.

To confirm further alſo, thoſe who might otherwiſe doubt of my being in the way of *Salvation*, as to *Faith*; I unfeignedly believe all thoſe very Points, *which Proteſtant Divines call the grand Fundamentals of Chriſtianity*; for I believe the *Incarnation*; I believe the *Trinity*; things as incomprehenſible and oppoſite to our finite Nature, as can be thought of; nor could any *Doctrine* be more ſtifly deny'd and rejected, than this has been by ſeveral *Chriſtians*; nay I declare as the *Church of England* does, when ſhe reads the *Creed of St. Athanaſius*, That *whoſoever will be ſaved muſt neceſſarily hold what is there expreſs'd.* I believe alſo in the *Merits*, *Mediation*, and *Satisfaction of Chriſt*, ſo that no *Action* of ours can poſſibly pleaſe but through his *Merits*; no *Mediation* of any Creature can have the leaſt force or weight, without the virtue of his *Mediation*; and no *Satisfaction* of ours can be valid, but

but as it is grounded on, and perfected by the All-sufficiency of his *Satisfaction*. I further believe, that *Faith* and *Good Works* must joyntly help in the great business of *Salvation*; that both are *God's gifts*, and that we are not able so much as to think *one good thought*, or do the least *good Action*, without his *free Grace* and Assistance. Lastly, I believe that the *Holy Scriptures* are the *Word of God*; that the *Reading of them* is profitable; that it is lawful to have them in the *Vulgar Tongue*; but I believe (and the like perchance do all *Christian Churches*) that there are *some things* * *hard in them, which the unlearned and unstable may wrest to their own destruction*; and that they are not of a * *private Interpretation*. Now should any judge otherwise, *viz. That every body truly interprets, who sincerely considers them*, yet I am still in the right; for then as a private man I think (and this with all sincerity) that the *hardness* before express'd, and the other words of St. *Peter*, (which intimate *they are not of a private interpretation*) ought to be understood in the plain and obvious sence.

* 2 Pet. 3. 16.

* 1 Pet. 1. 20.

If

If then by agreeing thus with *Protestants*, in what they call the *chief Fundamentals of Christianity*; and if also by the consent of their great and famous *Authors*, *several persons* (that have lived and died in our *Religion*) *are in Heaven*; for they stile them *Saints*, they admire their *Actions*, they propose them as *Examples*, and the like; I say, if then by reason of these things, I may rationally be assur'd that this *Interior part* of my *Belief* (to wit, that which principally relates to my self) cannot *damn me*, I will now very strictly examine the *Exterior*, or what touches others, and consequently the matters that concern the *Government*.

First, As to *Government* in general, I believe *Monarchy* (from my heart) to be the best; and I think far the better of it, as often as I consider our late Miseries and Disorders; yet had I been born in a lawful *Commonwealth*, *Aristocracy*, or *Elective Kingdom*, I should look upon my self bound in conscience to defend the *Establishment*, as I found it, (let it be which of these it will) against all pretences to the contrary, tho' they suited never

never so much with my own inclinations and Judgment.

In the next place, I believe our present Soveraign *Charles* the 2d. to be the true, sole and undoubted *King of England*, and that no *Monarch* in *Christendom* has a more indisputable *Title* to his *Crown* than He; which I look upon to be a great Blessing to his Subjects, being all oblig'd to obey, *not only for wrath, but for conscience sake also.*

Thirdly, I have been so far from hearing (till Mr. *Oates* and others of the same stamp mention'd it) of any *Excommunication*, or *Declaration of Heresie* issu'd out against the *King* by his *Holiness*, or any of that *Church*, that I am as much assur'd, that it is false, as that he never Christen'd or Confirm'd his said *Majesty*; for I have been twice my self at *Rome*, and know that the *Popes* have still spoken of him with great Honour and Respect: And besides, there was never yet any *Prince* (always *born* and *bred* out of the *Romish Communion*) that underwent this *Censure*.

Lastly, were our *King excommunicated* and *declared a Heretick*, yet I do unfeignedly

feignedly believe, that it would be a horrible *Treason* and *Sin* in any *Subject* to *Plot* against, *maim* or *hurt*, and much more to *kill* him; and I do further declare, that every *English*, *Scotch*, or *Irish* man is in conscience bound to prevent such a mischief, tho' it be with never so great a danger to his own life.

As for the *Doctrine of* * *deposing Kings*, I never knew nor heard of any *Religion*, in which there were not some that have held it; nay not only *Luther*, *Calvin*, *Zuinglius*, *Beza*, and all the prime Leaders of the Reformation, have in expres terms declared the same, and practis'd it; but *Pamphlets* have been lately cry'd about the *Streets*, which boast, *that there is no Reform'd Church from the* Waldenses *to this day, that has not deem'd the procedure lawful.* Now *Papists* are so far from holding it a *piece of Faith*, that *Bellarmine* (the *Pope's* great *Champion*) shows the contrary; and Cardinal *Perron* (no small Friend to his *Holiness's* power) calls it explicitely and plainly *a Problematical Opinion.* Nor has it only been written against,

* *Vid.* further the *Rep.* to *Answer of Cathol. Apol.* as also *The Comp.*

againſt, by ſeveral and ſeveral *zealous Papiſts*, but publickly and ſolemnly *condemn'd* in *Popiſh Countries*, in *Popiſh Univerſities*, and by *Popiſh Eccleſiaſticks* themſelves.

As for the *Oath of Allegiance*, I am abſolutely for the binding part of it, as to my *Duty*, tho' there may appear ſome difficulty as to the wording of it; inſomuch that I ſhall moſt willingly take this very *Oath*, if (I ſay) a word or two were chang'd, or the ſtricteſt that ever was propos'd by *Catholick Princes* to their People; and truly I do ſincerely believe, that they are as careful of their ſafety and intereſt, and are as much *Maſters* of both, as any *Governours* upon the face of the whole Earth.

As for the *Oath* of Supremacy, all *Catholicks* in the World agree in a Spiritual Dependency on *Rome*; ſo that even thoſe few that take this very *Oath*, do it, I ſuppoſe, upon a ſuppoſition or fancy, (as they have it in their Books) That the *Explanatory Act* (in the 5th. of the *Queen*) declares, *That ſhe pretends to no Supremacy in ſpiritual matters*; and thus the *Pope*'s Power is again (they think)

think) reſtored, and the whole made there-by a bare *Oath of Allegiance*; but I make ſome doubt whether this was ever thought of by any *Proteſtants*, and doubtleſs they are the beſt *Interpreters* of their own *penal Laws*. In ſhort, I deſign not to diſpute any Point, but with all Modeſty and Candor to hint, why I cannot in Conſcience comply with theſe *Oaths*; neither do I intend any way to leſſen the *Regalia*, or *Temporal Power of our Kings*; for I will ever defend it with my *Life* and *Fortune* againſt all Perſons whatſoever; nor can *Proteſtant Princes* (I think) be enſlaved or ſubjugated by our *Opinion*, ſince we find the *Catholick* ones to have been, and to be ſtill the freeſt and mightieſt *Potentates*, that we read of in the *Chriſtian Commonwealth*.

As for the Conſtitution and Frame of the *Government* of *England*, by *King*, *Lords* and *Commons*, I do admire it as the beſt that ever was, and beſeech *God* it may continue ſo to the end of the World; nor does any thing more plainly demonſtrate to me, that the *Principles of Popery* tend not to a *Tyrannick* and *Arbitrary Sway*, than that the *Laws* which preſerve our *Liberty* and *Property*, were *propos'd* in the flouriſhing

Times of that *Religion* by *Popish Peers*, were *approved* by *Popish Commons*, were *put in execution* by *Popish Judges*, and lastly were *deem'd* so *good* and *holy* by the *Popish Clergie*, that they solemnly desir'd *God's Vengeance and Wrath* to fall on the *Infringers* of them.

As for *Dispensations* to *Lye*, *Kill*, *Forswear*, and the like, I do not only abhor them, and protest that I never heard from *any Papist*, that they are or were grantable; but I also declare, that I verily believe, That neither the *Pope* by himself, nor with a *Council*, can give me leave to commit such *Sin* or *Sins*, or any *Act* now forbidden by *God*, or the *Law of Nature*; and this I mean in the ordinary sence, as every *Protestant* understands it in the reading. Nor do I believe, that either the *Church Collective*, (and much less a single man) can remit a *Sin*, *à parte ante*, that is to say, before it be committed; and when it is committed, that it cannot be forgiven even by *God* himself, without hearty sorrow in the *Offender*, and a resolution never to do the like again; so that I look upon all *Dissemblers* or *Church-Papists*, (as they are term'd) in a far worse condition than an *Infidel*.

This

This also I must beg leave to add here, that whereas many fancy and cry, that our *Ghostly Fathers* have a marvellous Authority among us, I do declare, that I verily believe, that there are no *Priests* among the *Eastern Sects* abroad, nor *Ministers* among our *Dissenters* at home, nor in short any *Clergie* among any *Separate Christians*, but have forty times more interest in their respective *Congregations*, than the *Popish* have had here, these many and many years. That some particular man has had, perchance, power with his *Patron*, I do not deny, and the same I have known happen to a *Valet de Chambre*, to a *House-keeper*, and it may be to *Servants* of an inferior degree; but so averse generally are the *English Catholicks*, I can say, (at least since my time) to take the Directions of their *Confessarius*, in any thing that has a tendency to temporal Affairs, that the best way oftentimes to perswade some to a business, was to tell them, *That the Priest did advise against it.* What I here alledge, I am very confident is true; and for the further proof of it, I appeal to any *Protestant* of repute, that has ever been of our *Communion*.

The Premisses then being the *Credenda*,

or ſum of my *Religion* and Belief in *Speculation*, there remains now a line or two of the *Practice*; and here alſo I ſhall ſhow my ſelf (to the diſſatisfaction of my Enemies) a zealous Lover of my *Country*; for truly I ever thought that this, and a ſincere devotion to the lawful eſtabliſh'd *Government*, were Synonimous words, and differ'd only in ſound.

I had not (I confeſs) by reaſon of my years, an immediate ſhare in the misfortunes of the late Times, but I am ſure afterwards I felt great effects of them; for all my near *Relations* were not wanting, (beſides their perſonal Attendance) in helping the then *King* with *Men*, *Money*, *Plate*, &c. So that *They* of the *Proteſtant Religion* underwent for this Loyalty, *Plunderings*, *Compoſitions*, *Decimations*, *Impriſonments*, and the like, and *Thoſe* of the *Catholick*, the *Confiſcation*, and *ſale* of all they had. As for my ſelf, as ſoon as I came to *Age* and my *Eſtate*, I was no ways behind-hand in my actual Duty; for I ſent his preſent *Majeſty* a very conſiderable *Sum* beyond Seas, and was ready alſo, *Anno* 59. (as not a few about him know) with *Men*, *Horſes* and *Arms*, to further his *Reſtauration*; for which

(within

(within a while after) I was imprison'd, and had run the Fate of several of his other faithful Subjects, had not the Times alter'd as they did; then being chosen of the *Free-Parliament*, I had the satisfaction of voting his *Return*, and was ever as forward as any in expressing the Zeal and Service I had for him. Nor fail'd I also, (happening then to be in *England*) to hazard my life in the *Dutch War*; and when I return'd again into Foreign Parts, I did what I could (by the *French Account* I printed there) to obviate the *Lyes* which tended to the dishonour of the Nation.

'Tis not by way of Exprobration, that I offer this Memorial, but 'tis to remember the *Reader*, that a long series of *Loyal Actions*, indicates a *Loyal Heart*, and that *Habits* are not lost on a sudden. I do also appeal to any man of Quality, I know in *England*, and to all I have been free with abroad, whether ever they heard me propose or defend *Paradoxes* in State-affairs, or found by any by-word a mutinous Tendency; for I may safely aver, that there was never yet a *Treason* gradually carry'd on, where the *Associates* (how wary soever they were in the main) have not endea-

vour'd

vour'd at some time or other, to raise *Discontents*, to aggravate matters of *Fact*, and to alienate the minds of their Acquaintance from the *Prince*. But these were still Actions so averse to my nature, that I always steer'd a quite opposite course; nor did this happen, I must say, (and I think every body is sufficiently satisfy'd of it) in hopes of preferment at *Court*, but it was in obedience and pursuance of those just *Principles*, which the *Laws* of *God* and *Man* oblige a *Subject* to; and therefore I can call *God* to witness, that I never heard of any thing that tended to the temporal prosperity of the *Kingdom*, which did not elate and transport me; or if the contrary happen'd, that created me not an extraordinary trouble and affliction.

As for my private *Transactions*, I mean those between man and man; whose *Ox*, whose *Ass* have I taken; or to whom have I omitted the doing of a kindness, when I was oblig'd to it either out of Gratitude or Civility? I must confess, with St. *Paul*, as to my *Religion*, I ever wisht, and still do, *that all men were such as I am except these Bonds*; and I think every Perswasion does the like. I do also with him declare, *That Evil*

Evil cannot be done, that Good may come of it; so that I vow by all that is Holy, (since I hope that *that Divine Grace*, which instructs, will also strengthen) *That I would not commit a premeditated sin to convert the whole World*; for God will be serv'd his own way, and when we do otherwise, 'tis extremely far from a Service. *Religion* therefore never made me yet neglect a *Friend*, or postpone a *Relation*; and so constant I have still been in this, that there are none of all my *Protestant Kindred*, but will acknowledge that my *Affection* has been as great, and my *Zeal* in their Concerns as intense, as if we had been of the same *Faith*. For my part, I always keep my *Opinions* to my self, unless when I am ask'd the reason of them by some, or told Magisterially by others, that nothing can possibly be said to such a Point: And if I chance to *Write*, it is in reference to my own *Defence*; nor can I think it a crime to *Reply*, when a man of Parts and Worth attacks me, for otherwise I never did, nor ever shall do it I am sure. 'Tis not my profession to make *Converts*; and truely when I accidentally met any, the usual Encouragement from me was, what several of them experimentally have found

and

and heard in *Catholick Countries*, where they now seek Relief, *That Heaven was the only Gain to be expected by their Change*; for *Papists* (I must say) are not so over-liberal as some think. *Heaven* (I thank God) was the only thing which I did, or could propose to my self; 'tis this also which assures me, if my *Religion* were true in mild weather, it must needs be so in a Storm; and lastly, 'tis this which made me always *Loyal*, and passionately to wish, That *England* might surpass both in *Glory* and *Plenty*, all the happy *Nations* that surround it.

Thus having given *Sir William* an account of my Principles both in *Theory* and *Practice* (and if the *Church of Rome* obliges me to any one contrary *Tenet*, I absolutely deny and reject it, which no body can do and be a *Catholick*.) I say, having given him this account, I hope for the future he will be so kind, as to believe I am greedy of no other *Fame* in the World, but to be deem'd (as I am) a *true* and *faithful Englishman*, and therefore when I make the least step or deviation out of the Road of Loyalty, I desire that this present Record under my own hand may rise in Judgment to my eternal Reproach and Infamy. *Finis.*

Amiens, Mar. 7. 1683.

THE

EARL
OF A. 5. 73.
CASTLEMAIN's
Manifesto.

Nec potest aut Veritas cum vi, aut Justitia cum credulitate conjungi. Lact.

Printed *Anno* 1681.

1725:12

THE EARL of CASTLEMAIN'S MANIFESTO.

HAving had the misfortune to be accus'd, (if he can call it so, that has been openly acquitted and freed,) I left the *Publication* of all Particulars, to those who still furnish'd the Curious with Transactions of that nature; But seeing they have been not a little faulty in my *Tryal*, which yet came not out till the end of last *January*; and seeing Mr. *Turbervile* has been as extravagant as any of his fellows, in his wild printed *Charge* against me, I think it now an incumbent *Duty* to give the

World, (and consequently Posterity) a full Account of my *Troubles*, since these unparallel'd *Disorders*, which have not only disturb'd the flourishing State of *England*, but astonish'd and amaz'd the whole Universe also.

The *Parliament* (according to the time appointed at their *July Prorogation*) meeting again on *Munday* the 21*st*. of *October* 1678. Mr. *Oates* was order'd (on the 2*d*. day following) by the *Lower House*, to acquaint them with the *Particulars* of the *Plot*, which he did in a Discourse of many hours, being for the most part the same, as that in the *Narrative*, since printed by his leave and directions. But the thing expected with the greatest Impatience by the whole *Town*, was an account of the *Persons* nominated to the *Spiritual* and *Temporal* Employments mention'd by him; and this he was to give in (as he did) the next day; whereupon the *House* sent for the *Chief Justice*, who having taken his *Accusation* upon *Oath*, issu'd out *Warrants*, and so * *three of the Lords* (the *Others*, and most of the *Gentlemen* being in the *Countrey*) were

* Lords, Peyto, Arundel, Belasis.

were secur'd that very night, or early next morning. The News flying presently about, several of my *Protestant Friends* came to congratulate my want of *Preferment*, which they took as an infallible sign of my Innocence; for they thought, I could not (if privy) have miss'd of some *Imployment*, when *Medbourn* a *Player*, and *Townley* an *Alehouse-keeper*, were already eminently promoted. Within some hours after, I heard that the *Earl of Powis* and my *Lord Arundel* (for my *Lord Bellasis* was not yet removed by reason of the *Gout*, which almost always afflicts him) were at the *Gate-house*, expecting how the *Peers* would dispose of them; I went to see them, as my near Relation to the one, and my Acquaintance with the other, I thought, obliged me. There I found they were to lye that night, and so to be carried to the *Tower*, but little dreamed that I was immediately to succeed them; for Mr. *Oates* (for Reasons best known to himself) thought fit next morning (*viz. Friday* the 25*th.*) to accuse me of *Treason* also to the *Commons*, who order'd the *Justices* *Oates* accuses me.

of Westminster (that were *Members*,) to examine him upon *Oath*, and then to proceed accordingly; which as soon as I heard, I went to take my leave of my *Friends*, foreseeing that a *Confinement* would necessarily follow.

Whilst I was in my *Visits*, one of my Servants came to acquaint me, that Mr. *Tissard* (the *Sheriff*) and his men were at my *House*; so that returning home some few hours after, (to wit, about 10 at night) I found the Rooms below stairs full of *People*; and asking them for their *Officer*, I spoke to him to this effect; *That I was sorry I had made him stay so long, but that he needed not to have troubled himself with so many Attendants, since any one of them with Authority had been sufficient.* He answer'd, That by virtue of the *Warrant*, (which he shewed) *he was to secure me and my Papers*, but that he had not yet medled with them, because he understood that I had the *Keys* of my *Cabinets* and *Closet* about me. I gave him many thanks for his Civility in not breaking open *Locks* unnecessarily, and then calling for Lights, I conducted him, and two or three of his

Followers, to my Apartment. Having there seiz'd all my *Papers*, he sealed them up in a *Box* with my own *Arms*, to avoid (as he told me) pretences of foul play, and so took it with him; but as for my self, (being it was very late) he suffer'd me (at my request) to lye at home with a Guard. In the morning he came again for me, and the *Box* being with him, I desir'd, that since he had taken not only my *Letters*, but all sorts of *Papers* also, as *Bills*, *Acquittances*, *Accounts*, and the like, (which might occasion perhaps, I said, some future dispute between me and my *Steward*, or those whom they concern'd) he would be pleas'd to let me see what he carried away. This too he civilly granted me; and when in the presence of him and the rest I had slightly viewed all, he sealed the said *Box* as before, and then brought it and me (together with a *Cabinet* full of *Deeds* and *Conveyances*) (which I wonder'd not a little at,) to *Sir Charles Harbord*'s, where I found not only *Sir Charles*, but *Sir Philip Howard* and *Sir Edmund Windham* (the *Knight-Marshal*) who came also thither to examine me. When

He secures me and my Papers.

My Examination.

When we were all seated about the Table, *Sir Charles* asked me, How long it was since my being at *Rome*? I told him, *I came last thence about the year* 69. Then he demanded, Whether I was divorc'd? I answer'd, *No*. Whether I knew one *Strange*? I told him, *Yes*. What was he for a man? I said, *He had been lately* (as I heard) *Provincial of the Jesuits*. Where had I seen him? I reply'd, *Beyond Sea*. Whether I had not seen him in *England*? I said, *Yes*. *When*, continu'd he? I answer'd, I was not able to tell exactly, it being a good while ago. He desir'd me to inform them as near as I could. I reply'd, That I thought at my *return home* (which was about that time twelve-month, or a little more) he among others came to welcome me; but I was sure I had not seen him in a long time. Then he asked me what I knew about the *Plot*? I answer'd, I knew *nothing*, neither did I believe there was any *Plot*. Did you (says he) never hear of any thing tending to a Design against the *King*? I answer'd, *I never did in all my life*, and that I thought my *Relations*

known

known Loyalty, and my *Own*, might assure them of it. *If you had been made acquainted* (says he) *with a* Design *against the* King, *do you think your self bound to have discover'd it*; *and would you have done it?* I answered, I was bound; and would have done it also.

This is the *sum* of my *Examination*; and as much of it as they deem'd fit, their *Clerk* (by their directions) put in writing, which I also read and subscribed. Now that the *Reader* may see the cause of all these Questions, I shall here insert *the particulars of* Oats's *Accusation before the Commons*, couch'd in his own Stile and Phrase; And thus I found it (some few days after) in the very *publick Papers* that went about, 'That JAMES *Earl of* Ca- *Mr. Oats's Accusation.*
'stlemain (for so he Chri-
'stned me) *was*, *he verily believed*, *a*
'Priest, *and of the* Order of Jesus: *That*
'*the said* Earl *had sued a* Divorce *between*
'*him and his Wife* Barbara, *now* Dutchess
'*of* Cleveland, *which* Divorce, *he* (Oats)
'*saw about* November *or* December *last*,
'*in the hands of* Richard Strange, *late*
'Provincial *of the* Jesuits *in* England;

'*and that in* June *or* July *last he heard* '*the said* Earl *in the Chamber of* John 'Fenwick *near the* Horſe ſhoe *in* Drury-'lane, *declare his Approbation of the late* 'White-horſe-Conſult *about the* King's 'Death: *preſent* Baſil Langworth *and the* 'said John Fenwick.

After Sir *Charles* had done with my *Examination*, he call'd for the *Cabinet of Deeds*; and taking out every *Drawer*, they opened ſome *Parchments*, and particularly thoſe with *Great Seals*; as *Colledge-Leaſes*, *Exemplifications*, &c. So that to ſave trouble, I aſſur'd them there was nothing there beſides *Writings* relating to my *Eſtate*. Sir *Charles* anſwered, *That among Writings it was a good place to hide Commiſſions*: By which I found why the *Sheriff* had brought them away with him; And truly I think that Sir *Charles* did alſo ask me in my *Examination* about the ſo much diſcourſed of *Commiſſions from Rome*. Now for the ſealed *Box of Papers*, he commanded it to be carried up to his Chamber, ſaying it was to be ſent to the *Council*; And after we were riſen they ask'd the *Sheriff* ſeveral private Queſtions, which (by

ſome

some words lowder than the rest) I guess'd were concerning the manner of my surrendry, and the like.

These *Magistrates* having thus fully performed their Duty, I told them I was not a little troubled, that my first Visit [illegible] them should be upon so ill, and so unexpected an account; but since I had (as I [illegible] satisfi'd them in all particulars, I might now go home. Sir *Charles* answered, *That they were to acquaint the House with what they had done, and that in the mean time the* Sheriff *was to keep me in custody*, who thereupon brought me to his *Brother's* in *Covent-Garden*; but within few hours after Dinner, an *Order* came (signed by these, and the other *Justices*) to convey me to the *Gate-house*, from whence the *Council* sent me afterwards by a *Serjeant at Arms* to the *Tower*. *Sent to the* Tower.

There I remained three *months*, that is to say, till the next Term; For on the first day of *Hillary-Term*, I moved for my *Habeas corpus*; and being brought by it to the *King's Bench-Bar*, the *Judges* asked Mr. Attorney *Jones* what he had to say against my Enlargement? He an-

answered, *That I was a Prisoner (as appeared by my Commitment) for High Treason in the highest nature; but that he had but one Witness against me.* My Case Easter Term 78. therefore being declared *Bailable*, I was bound in a Recognizance of 2000 *l.* and my *Sureties*, which were *two*, in 1000 *l.* a piece, that I should appear on the first of *Easter Term*, following. This I punctually performed; and at the end of the said *Term* I was again ordered to appear on the first of *Trinity Term*, which I did too; As also on the last of it; but then my *Council*, (to wit, Mr. *Scrogge* and Mr. *Sanders*) *mov'd for my Discharge*; So that Mr. *Attorney* (being call'd upon) answer'd, That Mr. *Oats* was my *Accuser*, and if their *Lordships* pleas'd, they might know of him what he had against me. Mr. *Oats* presently appeared, and openly averr'd, in my presence, and in the face of the whole Court, *That I had assented to the Death of the King: That I had sued out a Divorce from* Rome; *which Divorce he saw in the hands of Pro-*

I appeared East. Term, 1679.

A motion in *Trin. Term.* 79.

Mr. *Oats's* Accusation before the Judges of the *King's Bench.*

Provincial Strange; *And that he believed I was a* Priest. Tho' this were only my first Accusation; yet being of that high nature, the *Court* would not discharge me; therefore they continu'd me on Bail to appear on the first of *Michaelmas Term*; as I did; And then I was remitted to the last day of it, after the former manner: But long before that, there happened another Adventure, which I am here to relate.

I appear in *Mich. Term* 1679.

On *Saturday November* 1. 1679. I dined with my Lord *Powis* at the *Tower*; and about 5 in the evening, as I was coming from seeing my Lord *Bellasis*, (who had been ill) some of my Lord *Stafford's* people meeting me, said, That all the *Gates* were shut, and that the *Gentleman Porter*, with a *Guard*, was in quest of me. I presently desired them to tell him he might find me at their *Lords*; which being done, an *Order of Council* was shown me by a *Messenger*; who also told me, That I must presently attend the *Board*, So that calling for two *Hackney-Coaches*, (for they kept my own behind, to search

Taken the second time.

it

it for Papers) they first carried me home; where I found another *Messenger*, watching my Appartment, till I came my self to open the doors Here they seiz'd on all my Papers; and from thence I was brought to the *Lobby*, and after some stay there, unto the *Council-chamber* it self.

Brought before the King and Council and Examined.

Having made a low Reverence to the *King*, I stood not far from his *Chair*; then the Chancellor rose up and asked me if I knew one *Willoughby?* I answered, *Yes*: How long have you known him said he? I replied, *I would (if the Lordship thought fit) give him an account, not only of that, but of every thing else within my knowledge concerning him*, which he and the Board liking, I began thus; *That one Mrs.* Cellier *visiting the Prisons in the beginning of the Troubles, and coming to me (as she did to others) about Charity for the poor there: I told her, I would not only then give her something, but would allow them weekly also: And thus* (said I) *my Lords, I still do. Upon this account* (continued I) *and that of the St.* Omers *Witnesses, (which*

I had provided for my own Defence in case of Trial, and which I lodged at her House) she came frequently to me; and (among the news and accidents of the Prisons) told me one day, she had taken out of Newgate, *for* 3 l. 10 s. *a young man verst a little in the Law, whom she thought very fit to look after several desperate Debts (to the value of* 3 *or* 4000 l.*) due to her Husband, who had formerly been a considerable* French-*merchant: This Fellow was, it seems,* Willoughby, *now* Dangerfield: *and him she sent sometimes to my House on ordinary Errands; but presently he plaid me as villanous a trick as could be imagin'd, considering the times we live in; the thing was this; The five* Jesuits *being (on the* 20th *of* June *last) Executed, he came within very few days after, to me, either in my Lady* Powis's *Name, or pretending to go to her afterwards, and asked me if I thought it convenient to have their Speeches printed: I told him, By all means; for why should such excellent and loyal things fall to the ground? He replied,* That it would cost *Ten pounds; Well, said I, if it does, tell my Lady I'l willingly give something towards it;*

and

and ſo he departed. Not long after, I went to the Tower *to ſee my Lord; and as ſoon as I met him, ſaid he, (with an apparent diſſatisfaction)* Why did you ſend a ſtranger to me? And beſides, what have I to do with the *Jeſuits* Speeches? *Has any body (anſwer'd I) been with you in my Name concerning that Affair?* Yes, *(replied he)* one *Willoughby* (as they call'd him) whom I ſent away as he came, as ſoon as he acquainted me with the meſſage. *This accident ſurprizing and troubling me not a little, I took my leave of his Lordſhip, aſſuring him that I never ſent the Fellow, and ſo went ſtraight to Mrs.* Cellier, *(who being hunted for by Sir* William Waller *and Captain* Richardſon, *lay then at* Powis-houſe) *and bidding the Porter call her to me, I acquainted her what the Spark had done; and alſo told her, He was ſo great a Villain, that if ever he came any more to me, I would order my Servants to kick him out of my Houſe. Thus, my Lord,* (ſaid I to the *Chancellor*) *you have an account of my acquaintance with* Willoughby, *and the reaſon alſo I had to be angry, and to forbid him for ever coming near me again.* But (anſwer'd the *Chancellor*)

cellor) did you never know of any *Proposal* made to him by the *Lords in the Tower*? *No*, said I. Nor were you (proceeds his *Lordship*) ever angry with him *for refusing to perform what they proposed to him*? *No* (replied I) *I assure your Lordships*. Mr. *Willoughby* (says the *Chancellor*) you may perchance refresh my *Lord*'s memory with particular circumstances. Upon which he appeared on the other side of the *Table*, being before with his *Keeper* in a corner, unseen by me; and making a bow, I am beholding (said he) to your *Lordship* for confirming so material a part of my *Evidence*. *As how, good Mr.* Willoughby, answered I? That I was (said he) with the *Lords* in the *Tower*. *But Sir*, (answered I) *did I not, after your going thus thither in my Name, forbid you from coming at me any more*? You did, answered he, and *it was the last time I came*. *Then make, I pray, what advantage you can*, said I. The *Lords* in the *Tower* (continues he) having made me the *proposal*, I crav'd time to consider of it, which did not a little displease them; And when I went next to my *Lord Castle-*

ſtlemain's, I found him in his *Study*; who, as ſoon as he perceived me, roſe up in anger, and asked me, *Why I would not do that which the Lords propoſed to me, and for which I was taken out of* Priſon? So that, finding his *Lordſhip* in paſſion, *I ran down ſtairs, and went away. Willoughby* affirming this, and I the contrary, *viz. That I never heard of any* Propoſal *made him by the Lords*; The *Chancellor* ſaid, He would tell me what the *Propoſal* was, to make me the better call the whole buſineſs to mind; and then declar'd, *That they had propos'd the Killing of the King to him*; and this alſo *Willoughby* atteſted. *I know nothing of it*, replied I; and thereupon asked *Willoughby when it was that I thus frighted him down ſtairs?* As he was muſing a while, and looking up in a conſidering poſture, I ſaid, *You had need Friend conſider well, for* [redacted] *the* Queſtion about time *is the thing that will ever confound you and ſuch as you are.* At laſt he told me, It was a fortnight or three weeks after Sir *Geo. Wakeman's* Trial. *Now, my* Lords, (replied I) *I have all I deſire, having caught him (as I expected) in a moſt evident* Lie *and* Contradiction; *for did he not confeſs*

to

to your Lordſhips, that he never came to me after his Knavery *at the* Tower; *which was (as appears by the publick ſale of the* Jeſuits Speeches) *at leaſt* five weeks *before Sir* George Wakeman's *Trial*; *and yet now he affirms,* That my being angry with him was even a fortnight or three weeks after the ſaid Trial. This ſo much ſtartled him, that he had nothing to ſay, but that he would ſhew me circumſtances to prove the Truth of his Allegation; which were, That I was then writing the *Compendium*, a *Paragraph* of which he read as it lay before me on the *Table*: That one *Lawſon* was then in the Houſe, as alſo *Turner* the *Bookſeller. Theſe (ſaid I) are vain things, and ſo far from reconciling your former* Contradictions, *that they create new ones; For how was it poſſible for you to read a paragraph in a Paper, when I my ſelf was by, and (as you urge)* in an angry humour, *at the very firſt ſight of you.*

[And here I muſt, with my *Reader*'s leave, further acquaint him, That *Dangerfield* neither pretended to have done this by ſurprize, nor would it have availed him, had he ſaid ſo; for my *Chair*

and *Table* in my *Study*, (as every one of my Servants knew, and as the very *Officers* that had newly ſearch'd it could witneſs) ſo face the door, that it is impoſſible for any body to come in, and not to be preſently ſeen by me, when there.] Now (continu'd I to *Dangerfield*) for the perſons you name, they are eaſily gueſs'd at, *Lawſon* being my *Solliciter*, and conſequently moſt mornings with me, and the other my *Bookſeller*, who having Orders to bring me ſtill whatſoever was new, could not but be often at my Houſe, the *Preſs* being at preſent ſo prolifick. He to amuſe me and the *Board*, began again with the *Compendium*, and that he read only part of a *Paragraph*; but the *Chancellor* telling him, that that was not the preſent Queſtion, he was ſent out, and *Mr. Oates* came in, who had not long before written in a *Note* that he had ſomething to accuſe me of.

Oates came in againſt me.

As he was going to ſpeak, the *Chancellor* commanded the *Clerk* to give him his *Oath*. *Mr. Oates* anſwer'd, he had already ſworn to what he had there to ſay.

ſay. If you have ſworn a thouſand times, (reply'd *his Lordſhip*) no body here will believe you, unleſs you ſwear alſo before them. Upon that he kiſſed the *Book* without more words, and then ſaid; *That he ſaw me at a Meeting, in which I approved of the Deſign of killing the King; That I had ſued out a Divorce in the Court of* Rome *between me and the Dutcheſs of* Cleveland, *which Divorce he ſaw in the hands of Mr.* Strange *the then Provincial; and that he had alſo ſeen Letters both from* Liege *and* Rome (if I forget not) *that I was a Prieſt and had ſaid Maſs.* I aſſured their *Lordſhips*, that I would not tell them a *Lye* upon any account whatſoever; and if they found me thus guilty in the leaſt particular, I deſired that all things laid to my charge might be believed. Then I told them as for my being a *Prieſt*, I ſhould (were I one) be ſo far from poſitively denying it, as I did, that I would glory in the *Title*; but for the *Divorce* I durſt appeal to the *Dutcheſs* her ſelf, whom he had named. The *Chancellor* reply'd ſuddenly to this pur-

Oates's his Accuſation before the King and Council.

poſe, That the *Dutcheſs* would ſay nothing to the wrong or prejudice of any body. *My Lord*, (anſwer'd I) I ſpeak not this reflectingly, but to acquaint you, that ſhe (who is concern'd, and who has I am ſure made much enquiry about it) does certainly know the falſity of it. Then I deſir'd their *Lordſhips* to conſider, whether it were poſſible, that ſuch a ſilly pitiful Fellow as *Oates*, ſhould have thus all *Catholicks Secrets* (let their *Quality* be what it would) communicated to him. But as I was in this manner deſcanting on my Accuſer, a *Lord* roſe up and told me, *That I muſt know I was in the King's preſence, and that I was not to give his Witneſſes foul language*, with much more to that effect. So after ſome farther Velitations with Mr. *Oates*, and that I had aſſur'd him, I ſhould at another time, and in another place, ſhew him fully his miſtakes, and particularly about the *Divorce*, (which I ſaid ſeveral *Letters* of mine taken from the beginning, and ſtill in the hands of the *Council* would clear) he went out; but before I ſtirred, I addreſs'd my ſelf to the *King* in theſe or the like words: 'That tho'

'my

'my *Innocence* hindred me from fearing 'the punishment of a *Traytor*, yet I could 'not but deem my self extreamly unhap- 'py in being accused of *Treason*, when I 'had from time to time (as his *Majesty* 'well knew) given all the marks imagina- 'ble of my *Loyalty*. I ask'd also the *Noble- 'man*'s pardon for saying any thing that 'offended him or the *Board*, & so retir'd.

Many other things I had to urge to the *Council*; as their great dis-esteem and slight (hardly three days before) of *Dangerfield*'s Testimony against *Colonel Mansel*; his not laying to my charge any *Treason*; for he accused me not positively of knowing what the *Lords* in the *Tower* had proposed to him; and that as for *Mr. Oates*'s Charge, I had been imprison'd for it, and was then actually upon *Bail*. I say, I had many things to urge of this nature, which I deferr'd till I should be again called in; for I thought I was to be clear'd or sentenc'd *vivâ voce* by the *Board*. But after an hours waiting, *Sir Tho. Doleman* told me, the *Lords* were risen, and that there was an *Order* drawing to commit me for *High-Trea-*

Sent to the *Tower* the second time.

son to the *Tower*, where I was next day carried by *Serjeant Beck*, it being then near 10 at night.

These are the Particulars of my *2d. Imprisonment*, and in them I have been the more fuse, to shew how far from any favour the *Lords of the Privy-Council* still were; for tho' in my *Case* there appear'd matter enough to justifie some indulgence, had they pleased, yet they deem'd it fitter for me to undergo the trouble of a new Confinement, (notwithstanding the *Objections* against the *Witnesses*,) than that there should be (by their means,) the least possibility for an accused *Papist* to escape. But for all this constant practice of theirs, *Mr. Oates* has not been wanting upon several occasions, in publickly taxing the *Board* of Partiality on our behalf.

Some Accidents in the *Tower*.

As soon as I was brought to the *Tower*, *Mr. Cheek* (the present *Lieutenant*) made me a *close Prisoner*, whereby not only my *Friends*, but my very *Servants*, except a *Valet de Chambre*, were deny'd access. On the *Wednesday-night* following, (*viz. Nov.* 5.) the *Gentleman-Jaylor* came to

me

me for the *Lieutenants Fee*; I answer'd, That if the *Fee* were precarious, and at the Prisoner's Will, (as I had often heard it was) the asking of it now, I thought, was ill timed, for one Courtesie deserv'd another; and then I desir'd to know the reason of this severe Confinement, especially when the *Warrant*, shown me by the *Serjeant at Arms*, mentioned only *Safe-custody*, which is the *Liberty of the Tower* in other terms. He answer'd, That the *Lieutenant* did still upon the receit of a *Prisoner*, attend the *King*, to know his Commands, and accordingly he afterwards acted. I reply'd, *Sir John Robinson* follow'd his *written Orders*; and then further told him, that as for the Money required of me, I was so far at all times from denying an *Officer* his reputed *Fee*, that I deem'd it as much his due as his Rents, seeing otherwise an *Imployment* would not be such a favour as 'twas design'd; so that to save him trouble for the future, he was to know, that I had already paid it. To whom, answer'd he? To *Sir John Robinson*, (reply'd I,) the former *Lieutenant*; for since there can be but one *Fee* due for

any one *Impriſonment*, and ſince being out only upon *Bail*, I had been ſtill the *King*'s *Priſoner* as much as ever, therefore having paid it to *Sir John*, *Mr. Cheek* could no more demand any thing of me, than of any other *Lord* in the *Tower*. But (continu'd I,) I ſhall ſuddenly inform both his *Majeſty* and *Council* of *Mr. Lieutenant*'s Arbitrary uſage, contrary to their expreſs *Orders*, and if they approv'd it, I ſhould do the like alſo, In the mean time pray tell him of it, and bring me the *Copy* of my *Commitment* at your next coming. *Mr. Lieutenant* (ſays he) is not now at home; but as he was going away, I told him, that leſt any miſtake ſhould happen in the Meſſage, (for now adays I ſaw miſtakes in every thing,) I would write it down, as I preſently did, and ſo read it to him in my *man's* hearing. Next day, I prepared a *Petition* for the *King* and *Council*, and at night I asked him again for my ſaid *Commitment*. He anſwer'd, That the *Clerk* ſhould have brought it, had he not been abroad all day, and therefore he begg'd my pardon till the morning; but failing of it then

alſo, I ſent my *Man* towards noon to demand it of the *Lieutenant* himſelf, who ſaid, That his *Clerk* ſhould forthwith bring it, which he never did till the night following, which was *Saturday*; and then I ſent him back with it, telling him, I had been put off too long, and that my *Sollicitor* ſhould call, when he lack'd it.

Some were of opinion that Mr. *Cheek* did thus confine me till *Saturday*, (which was the 7*th*. day) and delay the ſending a Copy of my *Commitment*, on purpoſe that I ſhould loſe the advantage of the *Habeas Corpus Act*, which obliges the *Kings Bench* either to *Bail* or a *Trial*, if it be prayed in the firſt *week* of the *Term*. But whatever the *Lieutenant*'s motives were, he brought himſelf within the *Penalty* of the ſaid *Act*; for it expreſly declares, *That the non-delivery of the* Copy *of a* Commitment *within ſix hours demand, is the forfeiture of one hundred pounds to the Priſoner; and the ſecond* Conviction, *the loſs of his very Office or Employment.*

Tho' the Clerk (as I ſaid) brought me not the *Commitment* till *Saturday-night*, yet *Mr. Cheek* came to ſee me in the mor-

morning, and then acquainted me, that in answer to my *Petition*, the *Liberty of the Tower* was granted by the *Board*; that he hoped I would not take that little *Confinement* unkindly at his hands, it being his duty, he thought, to wait upon the *King* after his receiving of a *Prisoner*, to know fully his pleasure; and that if he had erred in the not understanding the strict words of an *Order*, his being so short a time in the place might very reasonably plead his excuse; nor was it (he assur'd me) his temper to be uneasie or troublesome to any under his *Charge*; for he could live (he said) without the least Dispute his whole lifetime with men of *Honour* and *Worth*, and so named my *Lord Arundel*, my *Lord Bellasis*, and *Sir Henry Titchborn*, &c. I answer'd, That kind usage was at least the interpreting *Orders* in the best sence, and not in the worst; that the *Order* was so plain, that it was impossible (one would have thought) to mistake it, but that my greatest trouble was, that *Mr. Cheek* (whom I had long known, and been acquainted with) should deal more severely with me, than a *Stranger*; yet

since

since I was his *Prisoner*, he should find as much Complyance and Civility from me as from any man in the *Tower*. To this he made a courteous Reply, and then asked me about the *Cause of my present Restraint*, which when I had told him, with all the Particulars already mention'd, he took his leave; nor am I certain whether he said any thing about his *Fee*; but if he did, I shewed him again the Reasons of my disputing it, as I had done before by his *Officer*.

Having now the satisfaction of seeing my *fellow-Prisoners* and other *Friends*, I thought fit to use the means (which the *Law* provided) for my *Liberty*, and therefore towards the end of the *Term*, (for having not the advantage of the beginning, all parts of it were alike) I moved for my *Habeas Corpus*, and so was brought on *Friday* the 21*st*. to the *King's-Bench*. The *Judges* asked me, What I desired? My *Councel* answer'd, To be *Bail'd*. Whereupon *Mr. Attorney Levins* was sent for, who said, *That I was committed for High-Treason, (as appear'd by my Commitment) and that I now had another Wit-*

I brought my *Habeas Corp* 72/80.

Witneſs againſt me. I anſwer'd, That the new one had not laid *Treaſon* to my Charge, and that I hoped ſince the *Court* was ſo favourable formerly as to bail me upon a *Commitment of High-Treaſon in the higheſt nature*, they would do the like now, when it ſpecifi'd *High-Treaſon* only. The *Judges* reply'd, That it was not (they thought) within their power. Then *my Lords* (ſaid I) *I demand my Tryal.* Do you hear *Mr. Attorney* (anſwer'd the *Ch. Juſtice*) what my *Lord* ſays, He demands his *Tryal?* This ſeem'd to ſurprize a great many, for it was the firſt time that any body had called for *Tryal*, ſince the ſtirs about the *Plot*; and *Mr. Sanders* hearing my Requeſt, moved, *that it might be recorded.* Whereupon *Sir Francis Pemberton* (out of Charity I ſuppoſe to an old Acquaintance and Client) reply'd, Do you know *Mr. Sanders* what you ask? would you have a *Tryal recorded* about *Treaſon*, when there are two *Witneſſes* ready to prove it? *My Lords*, (ſaid I to the Court) my coming hither was principally for *Bail*, which I humbly conceive your *Lordſhips* may legally grant; Therefore be

be pleas'd to order me a *Rule*, that I may again wait upon you, when you have consider'd my Case more throughly than your present great business will perchance give you leave. This I obtain'd at last, and so returned to the *Tower*; but before *Wednesday* following, (which was the day I intended to appear again) there happen'd this Accident, which put me out of all hopes of success in my business.

An Accident.

Mr. *Oats*, since his greatness, had two men call'd *Lane* and *Osborn*, who inform'd one *Knox* (a late Servant to the Earl of *Danby*) that their *Master* had made a *Sodomitical Attempt* on the Body of the said *Lane*; whereupon *Knox* encouraged them to bring the Affair upon the *Stage*, as they did; But within a while after they were Indicted, *for maliciously conspiring to blast the Kings Evidence*, &c. And their *Trial* happened on *Tuesday* the 25th. of *November*, being the day that just preceded my aforesaid intended second Appearance. These not being found competent to cope with Mr. *Oats*, to make their *Conspiracy* plain and indisputable, had also

ſo Mr. *Dangerfield*, as a Witneſs againſt them. His Evidence brought up the Rear, and lay heavieſt on *Catholicks*, for he made them the main Contrivers of this buſineſs, tho' before the ſtorm fell on my *Lord Danby*, as may be ſeen in the Printed *Trial*. *Dangerfield* having thus a large Field to ſport in, and knowing that I was again ſhortly to appear in that very *Court* about *Bail*, depoſed, *That the Affidavits or Charge againſt* Oats *(which* Lane *had ſworn to) had been ſent from the* Tower *to one Mr.* Nevil *(a Proteſtant) and to me, to enlarge upon as we ſhould think fit.* This being preſently all about the *Town*, ſeveral of my *Friends* adviſed me not to ſtir any more that *Term*; but I told them I muſt beg their Pardon; for tho' the *Judges* might perchance be now leſs favourable and indulgent; yet I would never countenance a falſe Accuſation ſo far as to deſiſt for it, from doing what I had publickly declared before. I went therefore to the *Hall* as I deſign'd; but finding it order'd, (by reaſon of a long Cauſe, or ſome buſineſs of that nature) *That no perſon who came by their* Ha-

Second Appearance.

Habeas Corpus, *should be that day heard*, I thought it not amiss to have my *Counsel* acquaint the *Court*, that I had been there, and then to demand a new *Rule* for *Friday*; which being granted, I appeared accordingly, and found the *Judges* (as I expected) severer than usually; for *Mr. Justice Dolben* told me even at first to this purpose; *That I might have spared my pains, they having heard (since my last being there) strange things of me.* And my *Lord Ch. Justice* said, *That I had (it seems) made so ill use of my late Liberty, and of the favour of the Court, that it would be the worse, he believed, for others.* After I had heard this and more to the same effect, I told their *Lordships*, that none could hinder the tongue of an ill man; that I would answer when they pleas'd to any Charge; and that in the mean time, I hop'd, they would not deny me my *Liberty* upon *Bail*, seeing my *Commitment was for High-Treason only.* At this some of the standers by repeated the words *for High-Treason only*, with no little *Emphasis* and wonder. *My Lords*, (said I) 'tis not that I think *High-Treason*

Third Appearance.

ſon a ſlight and inſufficient accuſation, but I uſe the word *Only*, as ſome inducement to you to grant my Requeſt, by remembring you, as I did t'other day, *that I was bail'd, when my Commitment mention'd High-Treaſon in the higheſt nature*; and therefore I cannot doubt of leſs favour now, that it runs in a more ſoft and gentle phraſe. Beſides (continu'd I) give me leave to acquaint your *Lordſhips*, that my *Councel* are of opinion, that I have the *Law* on my ſide. It is ſtrange your *Councel* ſhould tell you ſo, reply'd the *Ch. Juſtice*. My Lord (ſays *Mr. Sanders* to me) your *Sollicitor* has I ſuppoſe wrongly inform'd you; and then *Mr. Scroggs* turning to me, deſir'd I would name the *Councel*. This Anſwer of theirs a little ſurprized me; for I thought a *Lawyer* that takes a *Fee*, adviſes me to proceed as I propoſe, if he forbids it not, according to the common *Axiom*, *Qui non vetat, cum poteſt, jubet*. I ſpeak not this with any reflexion on theſe *Gentlemen*, but to ſhow how high the ſtorm was, when *Lawyers* themſelves fear'd to countenance their *Clients*, if their *Caſe* ſeem'd in the leaſt dubious or

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diſguſtful. Deſiring then no Diſputes with my own *Councel*, I addreſt my ſelf to the *Judges*, and after they had again told me, that my Requeſt could not be granted, I ſaid, I was ſorry that I had been forced thus to trouble them; that I knew they would pardon it, ſince that *excellent Court* was the only place, which men in my *preſent condition* were to fly to; that I ſhould always acknowledge with a great ſenſe, the favours I had often received of their *Lordſhips*; that I did acquieſce in their Judgment, and could now with ſatisfaction go back to priſon, having perform'd the duty which I thought my ſelf obliged to; that I hop'd no misfortune of mine would be a prejudice to others; And laſtly, I entreated them to remember, *that I did again and again demand Tryal*; for being wholly innocent, I would not wave it, were there as many ſuch Witneſſes againſt me as could ſtand between *Weſtminſter* and the *Tower*. Their *Lordſhips* received what I ſaid very civilly, adding again, that they were ſorry they could not relieve me, and ſo I preſently return'd.

Fees again demanded.

Some few nights after the *Gentleman-Gaoler* came again to me in *Mr. Lieutenant's* Name for his *Fee*. I answer'd, I thought I had already satisfi'd him in that point; but if it were otherwise, I could not help it, for I had no more to say. He repli'd to this effect, That the *Lieutenant* would use means, he believ'd, to have it, and locking the doors, departed. Next morning I was hardly dress't, when one of my men came and told me, that the *Lieutenant* passing by had called for the *Warder*, who presently returned with this Order; *That for the future he was to be in the Room whenever I gave or received Visits*: I bade him do his duty, for it was equal to me who heard my discourse; but I would nevertheless shortly know by what Authority *Mr. Cheek* dealt thus with me. Therefore as soon as the *Council* sate, I sent a *Petition* to the *King* and *Lords*, in which I shewed them what *Mr. Cheek* had done; and withal, that it was contrary not only to the practice of the *Tower*, but to their own late positive Commands; that his pretence for his arbitrary proceeding was, because I refu-

sed

ſed him thoſe *Fees*, which I had already paid, and ſo I ſtated my *Caſe*. I added further, That ſuppoſing I had been his *Debtor*, yet I knew that that *illuſtrious Board* would never ſuffer them who had the charge of *Priſoners*, to be their own *Judges* and *Carvers*. This was publickly read, but the *King* thought fit not to order any thing thereupon; for there happen'd alſo at the ſame time other *Petitions* about *Fees*; and his *Majeſty* (as I was informed) had hints before-hand, how prejudicial it would be to his *Officers*, if he countenanc'd thoſe that refuſed the paying of them. But tho' he order'd nothing (as I ſaid) in this Affair; yet, I believe, the *Lieutenant* was adviſ'd to be a little careful of what he did; for he ſeemed afterwards not ſo rigorous as in the beginning; and truly (for my own part) I thought, by this his more civil carriage, he was convinc'd that I had Right on my ſide, and conſequently that he would not purſue the buſineſs any further.

Within a while after, *Hilary Term* began, and asking then the *opinion* of ſome *Friends*, what I had beſt 1682.

dos they told me, That I had sufficiently acquainted the *Court* with my desire of *Tryal*; that doubtless the *King's Council* had already resolved whom to *try* and whom to *bail*; that it would perchance disgust them to be further pressed by me, because it might shock and interfere with their present measures; that my best way was therefore to expect their pleasure; and that certainly I should in course be either suddenly brought to *Bar*, or *bail'd*. I was no way averse to this *Advice*, knowing that if the worst came to the worst, the following *Term* (being that of *Easter*) would put me *in statu quo*; and truly I found no help till then. Therefore resolving to be no longer behind-hand, I order'd my *Councel* to demand *Tryal* on the very first day of the said *Term*, and to have it *recorded* also. This was done accordingly, and on the last of it, (my *Bill* being found by the *Grand-Jury*) I was to be try'd or set at liberty in *Trinity Term*, which beginning within less than *three weeks* after, I thought it not worth the troubling of my self or friends, to take the advantage of the *late Act* as to *Bail* in the mean while. When

Easter Term, 1680.

When this *Term* came, I was forc'd to a very unusual trouble and charge, *viz.* to move for my *Arraignment*, and to pay for the *Habeas Corpus*, &c. which brought me down. Now the reason why I thus press'd on, was, because if the day of my *Tryal* were not appointed, (which I knew could not, or would not be till I were *arraign'd*) several of my *Witnesses* might fail me in coming to *Town*; and then if *Mr. Attorney* (at the latter end of the said *Term*) should tell me he was ready, *I must either enter these Lists* unarm'd, or take it as a mighty favour to lye in *Prison* till *Michaelmas*. So much then for the *Preliminaries*; and now for my *Arraignment* and *Tryal*. *Trin.* Term, 80.

My Arraignment and Tryal.

My Arraignment and Tryal.

ON *Tuesday* the 15*th.* of *June*, 1680. I was *arraign'd* at the *King's-Bench Bar*, *for intending to disturb the peace of the Kingdom, to kill the King, levy War, and alter*

the eſtabliſh'd Religion to the Superſtition of the Church of Rome; to which after I had pleaded *Not Guilty*, and put my ſelf upon my *Countrey*, I was remanded to the *Tower*, *Wedneſday* 23*d.* being appointed for my *Tryal*. About 8 of the *clock* that day, I was again brought by *Mr. Lieutenant* to the ſame *Bar*, and towards 9 the *Tryal* began with the uſual *Proclamations* and Formalities. *Sir John Cutler* was *Foreman* of the *Jury*, and next to him *Sir Reginald Foſter*; but when *Roger Jenyns of Hayes Eſq;* was call'd, I acquainted the Judges, *That that Gentleman was my near Relation, and that I left it to their Lordſhips to determine whether he ſhould ſtand or no.* The *Court* was well ſatisfi'd with this procedure, intimating, that I depended (it ſeem'd) more on my *Innocence* than *Friends*, and ſo laying *Mr. Jenyns* aſide, *Mr. Harriot* ſucceeded. *Mr. Cheney* follow'd him; but upon *Mr. Johnſon's* appearance, I ſaid to this effect; *That tho' I had not hitherto challeng'd any body, yet I was unwilling that my Jury ſhould be compos'd wholly of ſuch as were intereſted in the late Attainders about the Plot; therefore to*

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ſave their Lordſhips ſome time and trouble. I deſir'd them to order, that no more of thoſe Gentlemen ſhould be propos'd to me. The *Ch. Juſtice* anſwer'd, That it was the *Priſoner's* part, and not the *Courts* to except; therefore *your Lordſhip* muſt do it (ſays he) your ſelf, when you think you are aggriev'd. I repli'd, That I ſpoke not this reflectingly, and to ſhow alſo, that I had nothing particular againſt *Mr. Johnſon*, I was contented he ſhould ſtand, who thereupon took his *Oath*; nor did I make any further ſtop, only when two (who were often call'd) could not eaſily get into *Court* for the preſs, I bade the *Clerk* go on, the next on the *Roll* ſupplying their places; ſo that the *twelve* ſworn were theſe that follow:

Sir John Cutler.	*Franc. Dorrington* Eſq;
Sir Regin. Foſter.	*Hugh Squire* Eſq;
Tho. Harriot Eſq;	*Charles Good* Eſq;
Rich. Cheney Eſq;	*John Pulford* Eſq;
Tho. Johnſon Eſq;	*Edward Clayton* Eſq;
Joh. Roberts Eſq;	*Francis Mayo* Eſq;

And here the Reader *may already ſee how reſolv'd* Combes, Advertiſement.

the late Publisher *of my* Tryal *was, to render it as disadvantagious to me as he could, when he omits these Particulars even at the very Empanelling of the* Jury; *which of themselves, (had they no relation to my Candour and Plain-dealing) were yet as fit to be mention'd as any other matter. Nor is he more ingenuous in the sequel, for he strangely mangles and lames as well the* Evidence *of* my Witnesses, *as my* own Answers; *and to make the whole the more imperfect and obscure, he leaves out, and confounds what he pleases all along;* nay, *to show his falshood almost in every thing, he makes* Mr. Justice Raimond *to speak extreamly often, tho' he said not one word to me all the while. This, I confess, may be yet gather'd by his* Relation, *that I was almost continually interrupted, so that it was still with the utmost do, before I could bring any Argument or Inference to the least head. But truly I am not to wonder at the indirect way of publishing Transactions of this nature, since every* Tryal *is complain'd of by those that were present; and therefore, I think, besides my own* Notes, *the early getting under their hands a full* Account *of what my* Witnesses *have*

atteſted, was no impertinent or over-cautious Action. And thus, Reader, *begging pardon for the preſent Digreſſion, I ſhall now proceed.*

After this, the *Indictment* was again read; and when the *King's Councel*, (viz. *Mr. Attorney*, *Mr. Sollicitor*, *Sir George Jeoffries*, and *Sir Fr. Withens*) had dilated on it, they call'd for *Mr. Oates*; but as I was about to ſpeak, I found two Difficulties therein; the one from the *Auditory*, who often deſir'd me *to raiſe my voice*; and the other from *Mr. Attorney*, who interrupting me, ſaid, *It was not time yet*; notwithſtanding I went on, what I ſpoke being to this purpoſe; *That I had* (*as their* Lordſhips *well knew by my often demanding* Tryal) *long wiſh'd for that happy day, as the ready means not only of obtaining my Liberty, but of ſhowing the World how much I had been calumniated and wronged; that I had pleaded* Not Guilty, *and now threw my ſelf into the Protection of that Excellent* Court, and Seat of Juſtice, *where I ſhould find* (*I was ſure*) *their* Lordſhips *as well my* Councel *as my* Judges, *and receive alſo of them all the le-*

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gal Favours usually granted Prisoners. *Mr. Attorney* interrupting me again, before I had quite ended the last words; the *Ch. Justice* ask'd, *If I had any thing against* Mr. Oates; meaning (as I suppos'd) a legal Impediment, why he should not be heard? I answer'd, *No; but that I threw my self into the Protection of the Court, and was ready now to hear, what the* Man *had to say*; whereupon he was sworn, and then he accus'd me thus:

Mr. Oats's Evidence. That in the *year* 77. after his Negotiation for some months in *Spain*, (where he had seen *Letters* from me to the *Fathers* there) He, at his return home (in *November*) brought several *Letters* with him, and *one* among the rest to me, the Contents of which he saw; That it expres'd, how zealous they of *Spain* were, in joyning with those of *England* to carry on the *Design*; by which *word*, they ever meant the *King's Death*, and *bringing in Popery*; that he deliver'd the said *Letter* to *Provincial Strange* at *London* for me, and saw afterwards at *St. Omers* a *Letter* of mine, *which* (*to his remembrance*)

France) *was the first he had seen*; wherein I acknowledg'd the receipt of that he brought me from *Spain*, and rejoyc'd at the good opinion the *Spanish Fathers* had of me; that he (being privy to the *Jesuits Letters*) saw also several others subscrib'd sometimes **Palmer**, sometimes **Castlemain**, and own'd also for mine; that by and by he would give the *Court* an account how he knew my *Hand*; that in *March* there came another from me, which rejected the Advice of the *Rectors of* Liege *and* Gant; who desir'd to have the *Secular Clergie* engag'd; *for I thought them to be a loose sort of men, of no Principles, and consequently unfit to be trusted.* He further said, (after several *Interrogations* by the *Court*) that I was not, he thinks, at the *great April Consult*, at least he does not accuse me of it, but that he saw me in *May* 78. at *Wild-house*, where he brought Messages to the *Fathers*; that I much desir'd there an *Association* with the *Benedictine Monks*; that he knew me not then, nor could swear that I knew him, nor that there were any words about *killing the King*, or other *Treason*; yet he believes the

the Discourse was bad enough; that on the 20th of the following *June*, as he was going about 7 or 8 a *clock* in the *Evening* with *Mr. Langworth*, to drink a kind of Ale in *Fuller's Rents*, which the said *Mr. Langworth* lik'd, they met me in *Lincolns-Inne-fields*; that *Mr. Langworth* saluting me, recommended him the said *Mr. Oates* as one serviceable in the present business; and also told him, who I was, *bidding him take notice of me*; that we went all to *Mr. Fenwick's* Chamber, where they acquainted me with the Transactions of the *April Consult*, in relation to the *Death* of the *King*, and the *introducing* of the *Catholick Religion*; for *Mr. Oates* thinks, I did not know the Particulars of the *Design* before; Whereupon I said openly to them, *That now I should be reveng'd for the Injuries done me.* As for the manner how he came to know my *Hand*, it was (he said) by seeing me then write the *Superscription* of a *Letter*, which I gave him to carry to the *general Post-house* in *London*, it being about 11 at night; nor did he remember, that any body came in to us then at *Mr. Fenwick's*, except the *Maid* that brought us *Drink*. Now

Now towards the *close* of the *Charge*, I began to ask *Mr. Oates* several Questions; for (in these *Tryals* about the *Plot*) the Accus'd were still admonish'd to stay, till the *Witness* had finish'd his Evidence; but first I bade him repeat his *Journey*, which he did thus; *That he went to* Spain *in* Apr. 77. *that he return'd in* November; *that about* December *he came to* St. Omers, *from whence in* March *he went to* Liege, *and in* April (some few days before the *Consult*) to *London*. *When you met me* (*said I*) *in* Lincolns-Inn-fields) *was I in a Coach or on foot?* On foot, answer'd he. *Was there any body with me?* I cannot remember that, repli'd he. But some in the *Court* said, *'Twas probable I was alone.* Whereupon I then answer'd, That *Mr. Oates* was the first, I believed, that ever saw me in *Lincolns-Inn-fields* alone, and on foot. *You saw, Mr. Oates,* (*continu'd I*) *Letters from me in* Spain? Yes, answer'd he. *Do not you say,* Mr. Oates, (*reply'd I*) *that you did not know me at* Fenwick's *Chamber?* I did not know you (answer'd he) at *Wild-house*, which was the first place I met you at. But he came to know you,

(said

(said the *Ch. Justice*) by *Langworth's* means in *Lincolns-Inne-fields*, and so you went together to *Fenwick's*. *Did you*, Mr. Oates (said I) *ever see me, or discourse with me after?* Not to *my remembrance*, (answer'd he.) *Did you ever see me, said I, at* Liege? No, answer'd he; I came thither over-night, (with one that was to take *Orders*) and return'd next morning. *Did you see me in any other place beyond Sea, said I again?* No, repli'd he. *Mr. Oates*, (said I) you lay to my charge here, the saying in *Mr. Fenwicks* Chamber, *that I should now be reveng'd*; did not you in pursuance of this Story before the *King* accuse me, *that you had seen a Divorce sued out by me at* Rome? I will (answer'd he) give Evidence about that, when *your Lordship* is indicted of *Priesthood*. But I pressing him again, and the *Court* telling him, that he must answer my *Questions*; *Mr. Attorney* with great earnestness said, *That it was foreign, and spoken in another place, and that I propos'd it only to entrap and catch* Mr. Oates. *Catch him*, repli'd I? *I confess it, and that all my Questions are for that intent; but how can any thing be fo-*

foreign, that proves him a Lyar and an ill man? and how can one be catch'd that speaks Truth, being also sure of a favourable hearing in his explanation, and the King's Council to back it? Therefore, Mr. Oates, (*continu'd I*) *did you tell the King or no, that you saw it?* I said, (answer'd he) that it was the *Report* among the *Fathers*; and it was also part of the *Discourse* at *Wild-house*; for there I heard my *Lord Castlemain* say, *that he had been at great Charges about the Divorce.* But did not you (repli'd I) tell the *King, you saw the Divorce in* Mr. Strange *his hands, and that he shew'd it you?* I told the *King*, (answer'd he) that I saw an Account of the *Divorce* in *Strange* his hand. Here *Sir Geo. Jeffries* also began to find fault with my *Questions* as foreign; and *Mr. Attorney* said, that, if such *foreign Questions* might be ask'd, no body could defend himself. 'Tis not, *Mr. Attorney*, (answer'd the *Ch. Justice*) so very remote, if my *Lord* would come to application. *Mr. Attorney* repli'd, That any man might be catch'd at that rate; that what he spoke was for methods sake, and to avoid excursions. *My Lords*,

(said

(ſaid I) *I deſire I may go on with what I have to ſay; no man can be catch'd that ſpeaks truth; nor will* Mr. Attorney *give me leave to catch* Mr. Oates. He anſwer'd, That I had liberty in whatever belong'd to the *Evidence.* I come to ſhow (repli'd I) the fitneſs of my *Queſtion* in this Affair; for *Mr. Oates* having accus'd me of being at *Wild-houſe*, of *meeting him in* Lincolns-Inn fields, of aſſenting to the *King's Death, becauſe I would be reveng'd*; therefore ſince he has brought the *King* upon the Stage, I'le now refreſh his Memory, by telling him what he accus'd me of before his *Majeſty*, as alſo before your *Lordſhips* in this *Court*; *therefore*, Mr. Oates, *did you ſay you ſaw a Divorce or no?* I do not remember, (anſwer'd he) that I ſaid ſo; but I remember you ſaid, you had been at great Expence about one. I hope now (*my Lord*) (repli'd *Mr. Attorney*) he has given you a ſatisfactory *Anſwer.* 'Tis very well at preſent, (anſwer'd I) and ſo we ended for that time.

This is the ſum of his *Charge*, and all the material *Queſtions* and *Anſwers* to it; but as he was going out of *Court*, I de-

desir'd he might not stir, till the end of the Tryal, unless it were a general Priviledge allow'd to *Witnesses*, which being determin'd in the Affirmative, I rested satisfied, and then *Mr. Dangerfield* took his place.

Now before he was sworn, I told the *Judges*, that he could not, I conceiv'd, be a Witness, and therefore pray'd he might be laid aside. The *Ch. Justice* ask'd, Why? Because (answer'd I) he has committed so many enormous Crimes, and those upon *Record*, that by Law he cannot be heard in any Court of Judicature. What *Records* (repli'd the *Ch. Justice*) have you? There are *fourteen* (answer'd I) already found; but not to be too troublesome to your *Lordships*, I only offer you *six*; which prove how he has been *pillor'd, burnt in the hand*, and even *outlaw'd for Felony*; whereupon my *Sollicitor* (being call'd) deliver'd them to the *Clerk*.

The 1*st. Record* show'd, * 25 Car. 2. *That having*, * Anno 73. *stolen from one* Mr. Blagrave, *a Cabinet worth* 10 l. *and* 10 *pieces of Gold in it, he was convicted of the Fact, and burnt in the hand at the* Old-Baily.

27 Car. 2. Mar. 1. The 2d. prov'd, *That being,* * Anno 75. *at* Chelmsford Assizes, (*held before* Sir Thomas Twisden) *indicted, for stealing from one* Tatterson 4 l. 10 s. *he broke Prison before he could be tryed, and was thereupon outlaw'd.*

29 Car. 2. Aug. 4. The 3d. 4th. and 5th. show'd, *That at the* Assizes, * Anno 77. (*held for the* County of Wilts) *he had three several Indictments brought against him for venting false Guinneys, and that being upon each convicted before* Sir Thomas Jones, *he was condemn'd to stand with a Paper on his Forehead three several days in the* Pillory, *and that twice (as Witnesses in Court would prove) he stood at* Salisbury, *but broke (before the 2d. time) Prison, and got away.*

30 Car. 2. May 16. The 6th. *was a Conviction at the* Old-Bally, * Anno 78. *of his again venting false Guinneys, for which (besides Imprisonment) he was fined* 50 l. Sir Tho. Jones *being then also one of the Judges.*

These were the Heads of the *Records*; but it being now a *Point in Law*, whether *Dangerfield* could be heard as a *Wit-*

Witness, I demanded *Councel* to argue it; and had *Mr. Jones*, *Mr. Sanders*, and *Mr. Darnel*, assign'd me. *Mr. Jones* said he was not prepar'd; *Mr. Sanders* happen'd not to be in *Court*; so that *Mr. Darnel* addressing himself to the *Judges*, very learnedly spake to this effect:

I conceive (with submission to your *Lordships*) that notwithstanding this *Pardon*, *Dangerfield* cannot be a *Witness*, because the *Pardon* hath only taken away the *Punishment*, and not the *Guilt* of his Offence. *My Lords*, It is adjudg'd in * 11 *Hen.* 4. That a man attainted of Felony, (as *Dangerfield* is) tho' he be afterwards pardon'd, cannot be sworn of a *Jury*. Of the same opinion also was the Court of *Common-Pleas* in 9 *Jacobi*, as we find it in *Brownlow's* and *Goldsborough's* * Reports; and my *Lord Cook* in *Brown's* and *Crashaw's* Case, (reported by *Mr. Bulstrode*) was of the same * opinion; *viz.* That a man attainted, tho' pardon'd, can never serve upon an Inquest, and consequently cannot be a Witness in any

* Fol. 41.

* Fol. 34.

* 2d. Rep. fol. 134.

Case; and the Reason he gave was, because he is not *Probus & legalis homo*; for, (says he) *Pœna mori potest, culpa perennis erit.* In *Mr. Brownlow's* 2d. *Report*, 47. it is adjudg'd, That if the *King* pardons a man attainted for giving a false Verdict, yet he shall not be at another time impanell'd upon any *Jury*; for tho' the *Punishment* be pardon'd, the *Guilt* remains: Upon which Authorities I humbly submit to your Judgments, whether *Dangerfield* can be a Witness.

Mr. Attorney on the contrary urg'd, That the *King's Pardon* had not only taken away the *Punishment*, but the *Guilt* also, and so clears the Person from the Crime and Infamy; and for this, he cited the Case in *Fitz. Herbert Coron*, where, in an *Appeal of Felony*, the *Defendant* offer'd *Tryal by Battel*, and the *Plaintiff* counterpleaded it by saying, The *Defendant* being apprehended, escap'd and brake *Prison*, which presumes a guiltiness; but (proceeds he) if the *King* pardons that *breaking of Prison*, the *Defendant* shall be restored to the *Battel*, and the *Counterplea* taken away.

Mr. Sollicitor argu'd to the ſame purpoſe; That the *King's Pardon* doth not only clear the *Offence* it ſelf, but all the *Dependencies*, *Penalties*, and *Diſabilities* incident to it. *Mr. Sergeant Jeffries* cited *Cuddington's Caſe*, in my Lord *Hobart's Reports*, That the *Pardon* takes away the *Reatum* as well as the *Pœnam*; and he ſaid beſides, That the conſtant *Practice* at the *Old-Baily* had been, to admit an *attainted Felon* after his *Pardon* to be a *Witneſs*; and this *Sir Francis Withens* did alſo much inſiſt upon. The Court anſwer'd as to the *Practice*, That perhaps no Exception had been made to it by the Parties concern'd; but doubting a little *Mr. Darnel's* Citations, they call'd for the Books, and finding them true, ſent *Mr. Juſtice Raimond* to the *Common-Pleas* for their Opinion, which was, *That a man attainted* (as Dangerfield) *upon an Outlawry for Felony, could not be a Witneſs, tho' pardon'd; but if attainted, and burnt in the hand, he might.* Now this being thought the preſent *Caſe*, tho' ſince upon further conſideration it is found to have been a miſtake; for *Dangerfield* was not *burnt in the hand*

for the *Felony* upon which he was *Outlaw'd*, but lately pardon'd; so that by reason of that *Attainder*, he can never be again a *legal Witness*. I say, this being thought the present *Case*, the *Court* told me, as they did before, that tho' he were to be heard, yet any *Record* to invalidate his Testimony, and show what a man he was, should be read and consider'd; and thereupon he was *sworn*, the *Dispute* having lasted above an hour.

Dangerfield's Evidence. His *Evidence* was this; That being sent to me with a *Letter* from my *Lady Powis*, which he gave me, I dispatch'd him back with an *Answer*, which her *Ladiship* open'd and read aloud in his presence, *Mrs. Cellier* being also by: That the said *Answer* express'd a liking of him the said *Dangerfield*, as a fit man to instruct the *Youths*, who were sent from St. *Omers* against *Mr. Oates*: *That I did teach those Youths what to say at the Tryals*. That when any *One* was out of his *Part*, it was common for to say, *I must go to my* Lord Castlemaine; and being ask'd by the *Ch. Justice*, Who said so? He answer'd,

That among others, he heard *Gifford* say it: That I order'd the taking *Lacy* out of *Prison*: That I approv'd of the *Letters* and *List of Names*, which he brought me from *Mr. Nevil*, alias *Pain*, to be convey'd into the Houses of the *Presbyterians*, being all to the same effect with those he had already put into *Col. Manſel*'s Chamber, tending to the credit of the *Sham-Plot*: That to this end I order'd him to imploy men to tranſcribe the ſaid *Letters*: That I being inform'd by a *Letter* from him, that the Perſons imploy'd had finiſh'd their Work, I ſent him by a *Meſſenger* (that is now in *Court*) 40 *s.* having ſent as much more to *Mrs. Cellier*, as ſhe told him: That in the middle of *Auguſt*, 79. he (*Dangerfield*) came to me, (and one of my Servants that was by, being ſent away) I ſaid to him, (with a very auſtere countenance, and like one that meditated Revenge) *Why did you refuſe to perform what the Lords in the Tower propos'd to you?* He ask'd, *If it were to kill the King?* And I anſwer'd, Yes; but ſeeing me in fury, he ran down ſtairs, and never came to me more: That (as